

**FINDINGS OF THE WINK-LOVING
INDEPENDENT SCHOOL DISTRICT BOARD
OF TRUSTEES
UNDER THE
TEXAS ECONOMIC DEVELOPMENT ACT
ON THE
APPLICATION SUBMITTED
BY
PHOEBE ENERGY PROJECT LLC (#1217)**



December 12, 2017

**FINDINGS
OF THE
WINK-LOVING INDEPENDENT
SCHOOL DISTRICT BOARD OF TRUSTEES
UNDER THE
TEXAS ECONOMIC DEVELOPMENT ACT
ON THE APPLICATION SUBMITTED BY
PHOEBE ENERGY PROJECT LLC (#1217)**

DECEMBER 12, 2017

FINDINGS OF THE WINK-LOVING INDEPENDENT
SCHOOL DISTRICT BOARD OF TRUSTEES UNDER THE
TEXAS ECONOMIC DEVELOPMENT ACT
ON THE APPLICATION SUBMITTED BY
PHOEBE ENERGY PROJECT LLC (#1217)

STATE OF TEXAS §
COUNTIES OF LOVING & WINKLER §

On the 12th day of December 2017, a public meeting of the Board of Trustees of the Wink-Loving Independent School District (“District”) was held. The meeting was duly posted in accordance with the provisions of the Texas Open Meetings Act, Chapter 551, Texas Government Code. At the meeting, the Board of Trustees took up and considered the application of Phoebe Energy Project LLC (“Applicant”) for an Appraised Value Limitation on Qualified Property, pursuant to Chapter 313 of the Texas Tax Code. The Board of Trustees solicited input into its deliberations on the Application from interested parties within the District. The Board of Trustees has considered the economic impact analysis and the project certification issued by the Texas Comptroller of Public Accounts. After hearing presentations from the District’s administrative staff, and from consultants retained by the District to advise the Board in this matter, and after considering the relevant documentary evidence, the Board of Trustees makes the following findings with respect to application from Applicant, and the economic impact of that application:

On September 14, 2017, the Superintendent of the District, acting as agent of the Board of Trustees, and the Texas Comptroller of Public Accounts (“Comptroller”) received an Application from Applicant for an Appraised Value Limitation on Qualified Property, pursuant to Chapter 313 of the Texas Tax Code. A copy of the Application is attached as **Attachment A**.

The Applicant, (Texas Taxpayer Id. 32064451308), is an entity subject to Chapter 171, Texas Tax Code, and is certified to be an active franchise taxpayer by the Comptroller. See **Attachment B**.

The Board of Trustees acknowledged receipt of the Application, along with the requisite application fee, established pursuant to Texas Tax Code § 313.025(a)(1) and Local District Policy.

The Application was delivered to the Comptroller for review pursuant to Texas Tax Code § 313.025(d). A copy of the Application was delivered to the Loving and Winkler County Appraisal Districts for review pursuant to 34 Tex. Admin. Code § 9.1054. On October 26, 2017, the Comptroller determined the Application to be complete.

The Application was reviewed by the Comptroller pursuant to Texas Tax Code §313.026, and a Comptroller Certificate was issued on November 13, 2017 in which the Comptroller has determined, inter alia, that: 1) Application is subject to the provisions of Chapter 171, Texas Tax Code; 2) the property meets the requirements of Section 313.024 for eligibility for a limitation on appraised values; 3) the proposed project is reasonably likely to generate tax revenue in an amount sufficient to offset the school district maintenance and operations ad valorem tax revenue lost as a result of the agreement before the 25th anniversary of the beginning of the limitation period; and, 4) the limitation on appraised value is a determining factor in the applicant's decision to invest capital and construct the project in this state. A copy of the Certificate is attached to the findings as **Attachment C**.

The Board of Trustees has previously directed that a specific financial analysis be conducted concerning the impact of the proposed value limitation on the finances of District. A copy of the report prepared by Moak, Casey & Associates, Inc., is attached to these findings as **Attachment D**.

The Board of Trustees has confirmed that the taxable value of property in the District for the preceding tax year, as determined under Subchapter M, Chapter 403, Government Code, is as stated in **Attachment E**.

The Texas Education Agency has evaluated the impact of the project on the District's facilities. TEA's determination is to be attached to these findings as **Attachment F**.

The Board has adopted the Texas Economic Development Agreement (Form 50-826) as promulgated by the Comptroller's Office. Form 50-826 has been altered only in accordance only the provisions of the template that the Comptroller permitted. The proposed Agreement is attached to these findings as **Attachment G**.

After review of the Comptroller's Certificate and economic analysis, and in consideration of its own studies the Board finds:

Board Finding Number 1.

The Board finds that the property described in the Application meets the requirements of Tex. Tax Code §313.024 for eligibility for a limitation on appraised value.

In support of Finding 1, the Application indicates that:

Phoebe Energy Project, LLC, proposes to develop a utility-scale, grid-connected solar photovoltaic energy (PV) plant within the Wink-Loving Independent School District.

Property used for renewable energy electric generation is eligible for a limitation under §313.024(b)(5).

Board Finding Number 2.

The project proposed by the applicant is reasonably likely to generate, before the 25th anniversary of the beginning of the limitation period, tax revenue, including state tax revenue, school district maintenance and operations ad valorem tax revenue attributable to the project, and any other tax revenue attributable to the effect of the project on the economy of the state, in an amount sufficient to offset the school district maintenance and operations ad valorem tax revenue lost as a result of the agreement (as detailed in Attachment B of the Comptroller's Certification).

Board Finding Number 3.

Based on the information certified by the Comptroller, the limitation on appraised value is a determining factor in the applicant's decision to invest capital and construct the project in this state (as detailed in Attachment C of the Comptroller's Certification).

Board Finding Number 4.

The Board finds that the Application Fee received was reasonable and only in such an amount as was necessary to cover the District's costs of processing the Application under consideration.

In support of Finding 4, the Board reviewed the Application Fee payment included in the Application at Attachment A, the contract with the District's consultants and the internal costs for processing the application, if any.

Board Finding Number 5.

Based upon the Application and in the Comptroller's Economic Impact Evaluation and Certification, Attachment B, the Board finds that that the number of jobs to be created and the wages to be paid comply with the requirements of statute; and, the Board further finds that the Chapter 313 Tax Limitation Agreement (Attachment G) contains all required provisions and information related to job creation requirements, to wit: the provisions set forth in Subsections 9.1C&D of such Agreement.

In its Application, Applicant has committed to creating one (1) new qualifying job. The average salary level of qualifying jobs will be at least \$59,500 per year. The review of the application by the Comptroller's indicated that this amount—based on Texas Workforce Commission data—complies with current Tex. Tax Code §313.021(3) requirement that qualifying jobs must pay 110 percent of the county average manufacturing wage. As defined in Section 313.021 of the Tax Code, "Qualifying Job" means a permanent full-time job that:

- (A) requires at least 1,600 hours of work a year;
- (B) is not transferred from one area in this state to another area in this state;
- (C) is not created to replace a previous employee;
- (D) is covered by a group health benefit plan for which the business offers to pay at least 80 percent of the premiums or other charges assessed for employee-only coverage under the plan, regardless of whether an employee may voluntarily waive the coverage; and
- (E) pays at least 110 percent of the county average weekly wage for manufacturing jobs in the county where the job is located.

Board Finding Number 6.

Based upon the information provided to the District with regard to the industry standard for staffing ratios of similar projects in the State of Texas, the District has determined that if the job creation requirement set forth in Texas Tax Code § 313.021(2)(A)(iv)(b) was applied, for the size and scope of the project described in the Application, the required number of jobs meets or exceeds the industry standard for the number of employees reasonably necessary for the operation of the facility.

Board Finding Number 7.

The Applicant does not intend to create any non-qualifying jobs.

In its Application, Applicant has indicated that it does not intend to create any non-qualifying jobs. For all non-qualifying jobs, the Applicant should create the Applicant will be required to pay at least the county average wage of \$60,399 for all jobs in the county in accordance with the provisions of Tex. Tax Code §313.024(d).

Board Finding Number 8.

The revenue gains that will be realized by the school district if the Application is approved will be significant in the long-term, with special reference to revenues used for supporting school district debt.

In support of this finding, the analysis prepared by Moak, Casey & Associates projects that the project would initially add \$248.5 million to the tax base for debt service purposes at the peak investment level for the 2020-21 school year. The project remains fully taxable for debt services taxes, although it is expected to depreciate at a substantial rate in the later years of the limitation period. With W-LISD currently levying a \$0.28 per \$100 I&S rate, local taxpayers should benefit from the addition of the Phoebe Solar project to the local I&S tax roll. Continued expansion of the project and related development could result in additional employment in the area and an increase in the school-age population, but this project is unlikely to have much impact on a stand-alone basis.

Board Finding Number 9.

The effect of the applicant's proposal, if approved, on the number or size of needed school district instructional facilities is not expected to increase the District's facility needs, with current trends suggest little underlying enrollment growth based on the impact of the project.

The summary of financial impact prepared by Moak, Casey & Associates, Inc., indicates that there will be little to no impact on school facilities created by the new project. This finding is confirmed by the TEA evaluation of this project's impact on the number and size of school facilities in the District as stated in **Attachment F**.

Board Finding Number 10.

The Board finds that with the adoption of District Policy CCG (Local), implemented in conformance with both Comptroller and Texas Education Agency Rules governing Chapter 313 Agreements, it has developed a process to verify, either directly or through its consultants, the accuracy and completeness of information in annual eligibility reports and biennial progress reports regarding (1) the reported number of jobs created and (2) the reported amount invested in the property.

Board Finding Number 11.

The Board of Trustees hired consultants to review and verify the information in the Application. Based upon the consultants' review, the Board has determined that the information provided by the Applicant is true and correct.

The Board has developed a written policy CCG (Local) which requires, upon the filing of an Application under Tax Code Chapter 313, the retention of consultants in order to verify: (1) that Applicant's information contained in the Application as to existing facts is true and correct; (2) that Applicant's information contained in the Application with respect to projections of future events are commercially reasonable and within the ability of Applicant to execute; (3) that information related to job creation is commercially reasonable and within the ability of Applicant to execute; (4) that Applicant's representations concerning and economic incentives being offered, if any, and (5) the proposed project meets eligibility requirements.

As a part of its verification process the Board notes that the Chapter 313 Application for which these Findings are being made has been submitted by the Applicant under oath. Chapter 313 Applications are governmental records under Tex. Penal Code §37.01(2)(A); as a result, all statements contained therein are representations of fact within the meaning of Tex. Penal Code § 37.01(3). Since Board action upon the adoption of these Findings and the approval of the Chapter 313 Tax Limitation Agreement (**Attachment G**) is an “official proceeding,” a false statement on a Chapter 313 application constitutes perjury under Tex. Penal Code § 37.03.

The Board finds that sworn statements are routinely used as an acceptable verification method for reliance by fact finders in each of the three separate branches of government, including trials.

The consultants have prepared signed statements that the consultants have reviewed and verified the contents of the Application and have determined that the current statements of fact contained in the Application are true and correct. (**Attachment H**) The Board finds that reliance by the Board and its consultants upon verified statements of the Applicant, especially as to Applicant's future intentions which cannot be objectively verified is reasonable and within the intent of Chapter 313, Texas Tax Code.

Board Finding Number 12.

The Board of Trustees has determined that the Tax Limitation Amount requested by Applicant is currently Twenty-Five Million Dollars, which is consistent with the minimum values currently set out by Tax Code, § 313.054(a).

The Board finds that the Chapter 313 Tax Limitation Agreement (**Attachment G**), in accordance with Comptroller's Form 50-826, contains all required provisions and information related to the required investment amount, to wit: the amount set forth in Section 2.5 of said Agreement. According to the Texas Comptroller of Public Accounts' School and Appraisal Districts' Property Value Study 2015 Final Findings made under Subchapter M, Chapter 403, Government Code for the preceding tax year, Attachment F. The total industrial value for the District is \$181.2 million. The District is categorized as Subchapter C, which applies only to a school district that has territory in a strategic investment area, as defined under Subchapter O, Chapter 171, Tax Code or in a county: (1) that has a population of less than 50,000 and (2) in which, from 1990 to 2000, according to the federal decennial census, the population: (A) remained the same; (B) decreased; or (C) increased, but at a rate of not more than three percent per annum. The District is classified as a "rural" district due to its demographic characteristics. Given that the value of industrial property is more than \$90 million but less than \$200 million, it is classified as a Category II district which can offer a minimum value limitation of \$25 million.

Board Finding Number 13.

The Board finds that the Chapter 313 Tax Limitation Agreement (Attachment G) contains all necessary provisions and information related to establishing the required investment amount, to wit: the amount set forth in Section 2.5 of said Agreement.

The Board relies on the certifications of its consultants and the Comptroller's Approval of the Agreement form to make this Finding. (**Attachment I**)

Board Finding Number 14.

The Applicant (Taxpayer No. 32064451308) is eligible for the limitation on appraised value of qualified property as an active franchise-tax paying entity.

The Applicant, (Texas Taxpayer No. 32064451308), is an entity subject to Chapter 171, Texas Tax Code, and is certified to be an active franchise tax payer by the Comptroller. See **Attachment B**. The Board also finds that the Chapter 313 Tax Limitation Agreement (Attachment G) contains all required provisions necessary for the Board to assess eligibility of any business to which an agreement is transferred.

Board Finding Number 15.

The project will be located within an area that is designated as a reinvestment zone, pursuant to Chapter 312 of the Texas Tax Code.

Board Finding Number 16.

The Agreement for an Appraised Value Limitation on Qualified Property, pursuant to Chapter 313 of the Texas Tax Code, attached hereto as Attachment G, includes adequate and appropriate revenue protection provisions for the District, and such provisions comply with the specific terms of Texas Tax Code, Chapter 313.

In support of this finding, the report of Moak, Casey & Associates, Inc. shows that the District will incur a revenue loss in the first year that the value limitation is in effect without the proposed Agreement. However, with this Agreement, the negative consequences of granting the value limitation are offset through the revenue protection provisions agreed to by the Applicant and the District. The Agreement contains adequate revenue protection

measures for the duration of the Agreement. In support of this Finding, the Board relies upon the recommendation of its consultants. (**Attachment H**)

Board Finding Number 17.

The Board finds that the Chapter 313 Tax Limitation Agreement (Attachment G) contains all required provisions necessary for the Board to assess performance standards and to require periodic deliverables that will enable it to hold businesses accountable for achieving desired results, to wit: the reporting requirements set forth in Article VIII of said Agreement.

Board Finding Number 18.

The Board finds that there are no conflicts of interest at the time of considering the agreement.

The Board finds that with the adoption of District Policies BBFA and BBFB, both (Legal) and (Local), set forth at <http://pol.tasb.org/Home/Index/1255>, that it has taken appropriate action to ensure that all District Trustees and the Superintendent, have disclosed any potential conflicts of interest, and that such disclosures will be made if any conflict of interest arises in the future, in compliance with the requirements of Texas Local Gov't Code §171.004.

In addition, at the public hearing, the Board caused the statement set forth in **Attachment J** to be read into the public record and that only Board members audibly responding that no conflict of interest existed either deliberated or voted on the Tax Limitation Agreement, these Findings or any matter relating to the Application upon which these Findings have been premised.

The Board finds that with the adoption of District Policies DBD, DGA, DH, and BBFB, both (Legal) and (Local) that it has taken appropriate action to ensure that all District employees and/or consultants, have disclosed any potential conflicts of interest, and that such disclosures will be made if any conflict of interest arises in the future, in compliance with the requirements of Texas Local Gov't Code §171.004.

The Board finds that no non-disclosed conflicts of interest exist as to the Application for which these Findings are being made, as of the time of action on these Findings.

Board Finding Number 19.

The Board directs that a link on its Web site to the Comptroller's Office's Web site where appraisal limitation related documents are made available to the public.

Board Finding Number 20.

Considering the purpose and effect of the law and the terms of the Agreement, that it is in the best interest of the District and the State to enter into the attached Agreement for Limitation on Appraised Value of Property for School District Maintenance and Operations Taxes.

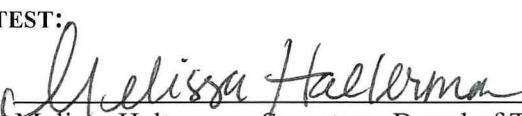
It is therefore ORDERED that the Agreement attached hereto as **Attachment G** is approved and hereby authorized to be executed and delivered by and on behalf of the District. It is further ORDERED that these findings and the Attachments referred to herein be attached to the Official Minutes of this meeting, and maintained in the permanent records of the Board of Trustees of the District.

Dated the 12th day of December 2017.

WINK-LOVING INDEPENDENT SCHOOL DISTRICT

By: 
Brad White, President, Board of Trustees

ATTEST:

By: 
Melissa Halterman, Secretary, Board of Trustees

Attachment A

Application

O'HANLON, DEMERATH & CASTILLO

ATTORNEYS & COUNSELORS AT LAW
808 WEST AVE
AUSTIN, TEXAS 78701
TELEPHONE: (512) 494-9949
FACSIMILIE: (512) 494-9919

KEVIN O'HANLON
CERTIFIED, CIVIL APPELLATE
CERTIFIED, CIVIL TRIAL

JUSTIN DEMERATH
BENJAMIN CASTILLO

September 19, 2017

Local Government Assistance & Economic Analysis
Texas Comptroller of Public Accounts
P.O. Box 13528
Austin, Texas 78711-3528

RE: Application to the Wink-Loving Independent School District from Phoebe Energy Project, LLC Application and Confidential Materials

To the Local Government Assistance & Economic Analysis Division:

By copy of this letter transmitting the application for review to the Comptroller's Office, the Wink-Loving Independent School District is notifying Phoebe Energy Project, LLC of its intent to consider the application for appraised value limitation on qualified property should a positive certificate be issued by the Comptroller. Please prepare the economic impact report.

The Applicant submitted the Application to the school district on September 14, 2017. The Board voted to accept the application on September 14, 2017. The application has been determined complete as of September 18, 2017.

The company has submitted Tabs portions of tabs 9, 10, 11, and 16 as confidential materials as part of the application. The confidential materials have been submitted separately. A copy of the non-confidential version of the application will be submitted to the Winkler County Appraisal District.

- Tab 9. Company has provided a non-confidential description of the Land. The confidential material is being submitted separately.
- Tab 10. Company has provided a non-confidential description of the CAD. The confidential material is being submitted separately.
- Tab 11 Maps of projects. The Qualified Investment, Qualified Property and Existing Property is all confidential. The map is being submitted separately.
- Tab 16. Land Description of the Re-Investment zone is Confidential and is being submitted separately.

We have included the accessibility report demonstrating that the document is fully accessible. To maintain the document in this form, we are submitting a password protected electronic version of the document. The password is 1234.

Please do not hesitate to call with any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Kevin O'Hanlon".

Kevin O'Hanlon
School District Consultant

Cc: Phoebe Energy Project, LLC
Winkler County Appraisal District

TAB 1

Pages 1-9 of Application.

O'HANLON, DEMERATH & CASTILLO

ATTORNEYS & COUNSELORS AT LAW
808 WEST AVE
AUSTIN, TEXAS 78701
TELEPHONE: (512) 494-9949
FACSIMILE: (512) 494-9919

KEVIN O'HANLON
CERTIFIED, CIVIL APPELLATE
CERTIFIED, CIVIL TRIAL

JUSTIN DEMERATH
BENJAMIN CASTILLO

October 3, 2017

Local Government Assistance & Economic Analysis
Texas Comptroller of Public Accounts
P.O. Box 13528
Austin, Texas 78711-3528

RE: Application to the Wink-Loving Independent School District from Phoebe Energy Project, LLC Application and Confidential Materials

To the Local Government Assistance & Economic Analysis Division:

The company has submitted Tabs portions of tabs 9, 10, 11, and 16 as confidential materials as part of the application. The confidential materials have been submitted separately. A copy of the non-confidential version of the application will be submitted to the Winkler County Appraisal District.

The Applicant has requested that portions of Tab 9, 10, 11 and 16 be kept confidential as they detail the planned location of the solar facility. The confidential materials are being submitted separately to protect against unintended disclosure. The location sited for this project results from detailed studies regarding the suitability of this site to produce solar energy. This information includes proprietary commercial information regarding the competitive siting decisions for the possible project and proprietary information regarding the proposed layout of the project. The maps depicting the planned location of the project display proprietary commercial information regarding the specific location of the possible project and the nature of the business that will be conducted at the site. The CAD records also reveal the exact location of the planned facility. All of these materials are protected by the trade secret exception set forth in Texas Government Code §552.110. Should the school district approve this application, the company will withdraw its request for confidentiality.

The applicant provided a non-confidential coversheet for Tab 10. As stated above, all the CAD pages provided in response to Tab 10 are confidential since they give exact locations of all land.

In accordance with 34 TAC 9.1053, the information that is the subject of this request is segregated from the materials submitted contemporaneously with this application

Please do not hesitate to call with any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Kevin O'Hanlon".

Kevin O'Hanlon
School District Consultant

Cc: Phoebe Energy Project, LLC
Winkler County Appraisal District

Application for Appraised Value Limitation on Qualified Property

(Tax Code, Chapter 313, Subchapter B or C)

INSTRUCTIONS: This application must be completed and filed with the school district. In order for an application to be processed, the governing body (school board) must elect to consider an application, but — by Comptroller rule — the school board may elect to consider the application only after the school district has received a completed application. Texas Tax Code, Section 313.025 requires that any completed application and any supplemental materials received by the school district must be forwarded within seven days to the Comptroller of Public Accounts.

If the school board elects to consider the application, the school district must:

- notify the Comptroller that the school board has elected to consider the application. This notice must include:
 - the date on which the school district received the application;
 - the date the school district determined that the application was complete;
 - the date the school board decided to consider the application; and
 - a request that the Comptroller prepare an economic impact analysis of the application;
- provide a copy of the notice to the appraisal district;
- must complete the sections of the application reserved for the school district and provide information required in the Comptroller rules located at 34 Texas Administrative Code (TAC) Section 9.1054; and
- forward the original hard copy of the completed application to the Comptroller in a three-ring binder with tabs, as indicated on page 9 of this application, separating each section of the documents, in addition to an electronic copy on CD. See 34 TAC Chapter 9, Subchapter F.

The governing body may, at its discretion, allow the applicant to supplement or amend the application after the filing date, subject to the restrictions in 34 TAC Chapter 9, Subchapter F.

When the Comptroller receives the notice and required information from the school district, the Comptroller will publish all submitted application materials on its website. The Comptroller is authorized to treat some application information as confidential and withhold it from publication on the Internet. To do so, however, the information must be segregated and comply with the other requirements set out in the Comptroller rules. For more information, see guidelines on Comptroller's website.

The Comptroller will independently determine whether the application has been completed according to the Comptroller's rules (34 TAC Chapter 9, Subchapter F). If the Comptroller finds the application is not complete, the Comptroller will request additional materials from the school district. Pursuant to 9.1053(a)(1)(C), requested information shall be provided within 20 days of the date of the request. When the Comptroller determines that the application is complete, it will send the school district a notice indicating so. The Comptroller will determine the eligibility of the project, issue a certificate for a limitation on appraised value to the school board regarding the application and prepare an economic impact evaluation by the 90th day after the Comptroller receives a complete application—as determined by the Comptroller.

The school board must approve or disapprove the application not later than the 150th day after the application review start date (the date the application is finally determined to be complete), unless an extension is granted. The Comptroller and school district are authorized to request additional information from the applicant that is reasonably necessary to issue a certificate, complete the economic impact evaluation or consider the application at any time during the application review period.

Please visit the Comptroller's website to find out more about the program at comptroller.texas.gov/economy/local/ch313/. There are links to the Chapter 313 statute, rules, guidelines and forms. Information about minimum limitation values for particular districts and wage standards may also be found at that site.

SECTION 1: School District Information

1. Authorized School District Representative

Date Application Received by District

Scotty

First Name

Superintendent

Title

Wink-Loving ISD

School District Name

200 N. Rosey Dodd Avenue

Street Address

P.O. Box 637

Mailing Address

Wink

City

(432) 527-3880

Phone Number

Mobile Number (optional)

Carman

Last Name

TX

State

79789

ZIP

(432) 527-3505

Fax Number

scarman@wlisd.net

Email Address

2. Does the district authorize the consultant to provide and obtain information related to this application?

Yes

No

SECTION 1: School District Information (*continued*)**3. Authorized School District Consultant (*If Applicable*)**

Dan

First Name

Partner

Title

Moak, Casey & Associates

Firm Name

(512) 485-7878

Phone Number

Mobile Number (*optional*)

4. On what date did the district determine this application complete?
5. Has the district determined that the electronic copy and hard copy are identical?

 Yes No

Casey

Last Name

(512) 485-7888

Fax Number

dcasey@moakcasey.com

Email Address

September 18, 2017

SECTION 2: Applicant Information**1. Authorized Company Representative (*Applicant*)**

Michael

First Name

Chief Operating Officer

Title

133 Federal Street

Street Address

Suite 1202

Mailing Address

Boston

City

(617) 895-6300

Phone Number

Mobile Number (*optional*)

2. Will a company official other than the authorized company representative be responsible for responding to future information requests?

2a. If yes, please fill out contact information for that person.

 Yes No

Alvarez

Last Name

Longroad Development Company, LLC

Organization

MA

02210

State

ZIP

N/A

Fax Number

michael.alvarez@longroadenergy.com

Business Email Address

First Name

Last Name

Title

Organization

Street Address

Mailing Address

City

ZIP

Phone Number

Fax Number

Mobile Number (*optional*)

Business Email Address

3. Does the applicant authorize the consultant to provide and obtain information related to this application?

 Yes No

SECTION 2: Applicant Information (continued)**4. Authorized Company Consultant (*If Applicable*)**

Scott

First Name

Chief Development Officer

Title

7X Energy, Inc.

Firm Name

(512) 680-0052

Phone Number

scott.pryor@7X.energy

Business Email Address

Pryor

Last Name

Fax Number

SECTION 3: Fees and Payments

1. Has an application fee been paid to the school district? Yes No

The total fee shall be paid at time of the application is submitted to the school district. Any fees not accompanying the original application shall be considered supplemental payments.

- 1a. If yes, attach in **Tab 2** proof of application fee paid to the school district.

For the purpose of questions 2 and 3, "payments to the school district" include any and all payments or transfers of things of value made to the school district or to any person or persons in any form if such payment or transfer of thing of value being provided is in recognition of, anticipation of, or consideration for the agreement for limitation on appraised value.

2. Will any "payments to the school district" that you may make in order to receive a property tax value limitation agreement result in payments that are not in compliance with Tax Code §313.027(i)? Yes No N/A
3. If "payments to the school district" will only be determined by a formula or methodology without a specific amount being specified, could such method result in "payments to the school district" that are not in compliance with Tax Code §313.027(i)? Yes No N/A

SECTION 4: Business Applicant Information

1. What is the legal name of the applicant under which this application is made? Phoebe Energy Project, LLC
2. List the Texas Taxpayer I.D. number of entity subject to Tax Code, Chapter 171 (*11 digits*) 32064451308
3. List the NAICS code 221114
4. Is the applicant a party to any other pending or active Chapter 313 agreements? Yes No
- 4a. If yes, please list application number, name of school district and year of agreement

SECTION 5: Applicant Business Structure

1. Identify Business Organization of Applicant (*corporation, limited liability corporation, etc*) Limited Liability Company
2. Is applicant a combined group, or comprised of members of a combined group, as defined by Tax Code §171.0001(7)? Yes No
- 2a. If yes, attach in **Tab 3** a copy of Texas Comptroller Franchise Tax Form No. 05-165, No. 05-166, or any other documentation from the Franchise Tax Division to demonstrate the applicant's combined group membership and contact information.
3. Is the applicant current on all tax payments due to the State of Texas? Yes No
4. Are all applicant members of the combined group current on all tax payments due to the State of Texas? Yes No N/A
5. If the answer to question 3 or 4 is no, please explain and/or disclose any history of default, delinquencies and/or any material litigation, including litigation involving the State of Texas. (*If necessary, attach explanation in Tab 3*)

SECTION 6: Eligibility Under Tax Code Chapter 313.024

1. Are you an entity subject to the tax under Tax Code, Chapter 171? Yes No
2. The property will be used for one of the following activities:
- (1) manufacturing Yes No
 - (2) research and development Yes No
 - (3) a clean coal project, as defined by Section 5.001, Water Code Yes No
 - (4) an advanced clean energy project, as defined by Section 382.003, Health and Safety Code Yes No
 - (5) renewable energy electric generation Yes No
 - (6) electric power generation using integrated gasification combined cycle technology Yes No
 - (7) nuclear electric power generation Yes No
 - (8) a computer center that is used as an integral part or as a necessary auxiliary part for the activity conducted by applicant in one or more activities described by Subdivisions (1) through (7) Yes No
 - (9) a Texas Priority Project, as defined by 313.024(e)(7) and TAC 9.1051 Yes No
3. Are you requesting that any of the land be classified as qualified investment? Yes No
4. Will any of the proposed qualified investment be leased under a capitalized lease? Yes No
5. Will any of the proposed qualified investment be leased under an operating lease? Yes No
6. Are you including property that is owned by a person other than the applicant? Yes No
7. Will any property be pooled or proposed to be pooled with property owned by the applicant in determining the amount of your qualified investment? Yes No

SECTION 7: Project Description

1. In Tab 4, attach a detailed description of the scope of the proposed project, including, at a minimum, the type and planned use of real and tangible personal property, the nature of the business, a timeline for property construction or installation, and any other relevant information.
2. Check the project characteristics that apply to the proposed project:
- | | |
|---|--|
| <input checked="" type="checkbox"/> Land has no existing improvements | <input type="checkbox"/> Land has existing improvements (<i>complete Section 13</i>) |
| <input type="checkbox"/> Expansion of existing operation on the land (<i>complete Section 13</i>) | <input type="checkbox"/> Relocation within Texas |

SECTION 8: Limitation as Determining Factor

1. Does the applicant currently own the land on which the proposed project will occur? Yes No
2. Has the applicant entered into any agreements, contracts or letters of intent related to the proposed project? Yes No
3. Does the applicant have current business activities at the location where the proposed project will occur? Yes No
4. Has the applicant made public statements in SEC filings or other documents regarding its intentions regarding the proposed project location? Yes No
5. Has the applicant received any local or state permits for activities on the proposed project site? Yes No
6. Has the applicant received commitments for state or local incentives for activities at the proposed project site? Yes No
7. Is the applicant evaluating other locations not in Texas for the proposed project? Yes No
8. Has the applicant provided capital investment or return on investment information for the proposed project in comparison with other alternative investment opportunities? Yes No
9. Has the applicant provided information related to the applicant's inputs, transportation and markets for the proposed project? Yes No
10. Are you submitting information to assist in the determination as to whether the limitation on appraised value is a determining factor in the applicant's decision to invest capital and construct the project in Texas? Yes No

Chapter 313.026(e) states "the applicant may submit information to the Comptroller that would provide a basis for an affirmative determination under Subsection (c)(2)." If you answered "yes" to any of the questions in Section 8, attach supporting information in Tab 5.

SECTION 9: Projected Timeline

1. Application approval by school board	1/2018
2. Commencement of construction	7/2018
3. Beginning of qualifying time period	1/2019
4. First year of limitation	1/2020
5. Begin hiring new employees	12/2019
6. Commencement of commercial operations	12/2019
7. Do you propose to construct a new building or to erect or affix a new improvement after your application review start date (<i>date your application is finally determined to be complete?</i>)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Note: Improvements made before that time may not be considered qualified property.	
8. When do you anticipate the new buildings or improvements will be placed in service?	1/2020

SECTION 10: The Property

1. Identify county or counties in which the proposed project will be located	Winkler County
2. Identify Central Appraisal District (CAD) that will be responsible for appraising the property	Winkler CAD
3. Will this CAD be acting on behalf of another CAD to appraise this property?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
4. List all taxing entities that have jurisdiction for the property, the portion of project within each entity and tax rates for each entity:	
County: Winkler County, \$0.80, 100% <small>(Name, tax rate and percent of project)</small>	City: _____ <small>(Name, tax rate and percent of project)</small>
Hospital District: WCHD, \$0.28 (as of 9/19/17), 100% <small>(Name, tax rate and percent of project)</small>	Water District: _____ <small>(Name, tax rate and percent of project)</small>
Other (describe): _____ <small>(Name, tax rate and percent of project)</small>	Other (describe): _____ <small>(Name, tax rate and percent of project)</small>
5. Is the project located entirely within the ISD listed in Section 1?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
5a. If no, attach in Tab 6 additional information on the project scope and size to assist in the economic analysis.	
6. Did you receive a determination from the Texas Economic Development and Tourism Office that this proposed project and at least one other project seeking a limitation agreement constitute a single unified project (SUP), as allowed in §313.024(d-2)?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
6a. If yes, attach in Tab 6 supporting documentation from the Office of the Governor.	

SECTION 11: Investment

1. At the time of application, what is the estimated minimum qualified investment required for this school district?	20,000,000.00
2. What is the amount of appraised value limitation for which you are applying?	25,000,000.00
Note: The property value limitation amount is based on property values available at the time of application and may change prior to the execution of any final agreement.	
3. Does the qualified investment meet the requirements of Tax Code §313.021(1)?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
4. Attach a description of the qualified investment [See §313.021(1).] The description must include:	
a. a specific and detailed description of the qualified investment you propose to make on the property for which you are requesting an appraised value limitation as defined by Tax Code §313.021 (Tab 7);	
b. a description of any new buildings, proposed new improvements or personal property which you intend to include as part of your minimum qualified investment (Tab 7); and	
c. a detailed map of the qualified investment showing location of tangible personal property to be placed in service during the qualifying time period and buildings to be constructed during the qualifying time period, with vicinity map (Tab 11).	
5. Do you intend to make at least the minimum qualified investment required by Tax Code §313.023 (or §313.053 for Subchapter C school districts) for the relevant school district category during the qualifying time period?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

SECTION 12: Qualified Property

1. Attach a detailed description of the qualified property. [See §313.021(2)] (If qualified investment describes qualified property exactly, you may skip items a, b and c below.) The description must include:
 - 1a. a specific and detailed description of the qualified property for which you are requesting an appraised value limitation as defined by Tax Code §313.021 (**Tab 8**);
 - 1b. a description of any new buildings, proposed new improvements or personal property which you intend to include as part of your qualified property (**Tab 8**); and
 - 1c. a map of the qualified property showing location of new buildings or new improvements with vicinity map (**Tab 11**).
2. Is the land upon which the new buildings or new improvements will be built part of the qualified property described by §313.021(2)(A)? Yes No
 - 2a. If yes, attach complete documentation including:
 - a. legal description of the land (**Tab 9**);
 - b. each existing appraisal parcel number of the land on which the new improvements will be constructed, regardless of whether or not all of the land described in the current parcel will become qualified property (**Tab 9**);
 - c. owner (**Tab 9**);
 - d. the current taxable value of the land. Attach estimate if land is part of larger parcel (**Tab 9**); and
 - e. a detailed map showing the location of the land with vicinity map (**Tab 11**).
3. Is the land on which you propose new construction or new improvements currently located in an area designated as a reinvestment zone under Tax Code Chapter 311 or 312 or as an enterprise zone under Government Code Chapter 2303? Yes No
 - 3a. If yes, attach the applicable supporting documentation:
 - a. evidence that the area qualifies as a enterprise zone as defined by the Governor's Office (**Tab 16**);
 - b. legal description of reinvestment zone (**Tab 16**);
 - c. order, resolution or ordinance establishing the reinvestment zone (**Tab 16**);
 - d. guidelines and criteria for creating the zone (**Tab 16**); and
 - e. a map of the reinvestment zone or enterprise zone boundaries with vicinity map (**Tab 11**)
 - 3b. If no, submit detailed description of proposed reinvestment zone or enterprise zone with a map indicating the boundaries of the zone on which you propose new construction or new improvements to the Comptroller's office within 30 days of the application date. What is the anticipated date on which you will submit final proof of a reinvestment zone or enterprise zone?

SECTION 13: Information on Property Not Eligible to Become Qualified Property

1. In **Tab 10**, attach a specific and detailed description of all **existing property**. This includes buildings and improvements existing as of the application review start date (the date the application is determined to be complete by the Comptroller). The description must provide sufficient detail to locate all existing property on the land that will be subject to the agreement and distinguish existing property from future proposed property.
 2. In **Tab 10**, attach a specific and detailed description of all **proposed new property that will not become new improvements** as defined by TAC 9.1051. This includes proposed property that: functionally replaces existing or demolished/removed property; is used to maintain, refurbish, renovate, modify or upgrade existing property; or is affixed to existing property; or is otherwise ineligible to become qualified property. The description must provide sufficient detail to distinguish existing property (question 1) and all proposed new property that cannot become qualified property from proposed qualified property that will be subject to the agreement (as described in Section 12 of this application).
 3. For the property not eligible to become qualified property listed in response to questions 1 and 2 of this section, provide the following supporting information in **Tab 10**:
 - a. maps and/or detailed site plan;
 - b. surveys;
 - c. appraisal district values and parcel numbers;
 - d. inventory lists;
 - e. existing and proposed property lists;
 - f. model and serial numbers of existing property; or
 - g. other information of sufficient detail and description.
 4. Total estimated market value of existing property (that property described in response to question 1): \$ 0.00
 5. In **Tab 10**, include an appraisal value by the CAD of all the buildings and improvements existing as of a date within 15 days of the date the application is received by the school district.
 6. Total estimated market value of proposed property not eligible to become qualified property
(*that property described in response to question 2*): \$ 0.00
- Note:** Investment for the property listed in question 2 may count towards qualified investment in Column C of Schedules A-1 and A-2, if it meets the requirements of 313.021(1). Such property cannot become qualified property on Schedule B.

SECTION 14: Wage and Employment Information

1. What is the estimated number of permanent jobs (more than 1,600 hours a year), with the applicant or a contractor of the applicant, on the proposed qualified property during the last complete quarter before the application review start date (date your application is finally determined to be complete)? 0

2. What is the last complete calendar quarter before application review start date:
 First Quarter Second Quarter Third Quarter Fourth Quarter of 2017
(year)

3. What were the number of permanent jobs (more than 1,600 hours a year) this applicant had in Texas during the most recent quarter reported to the Texas Workforce Commission (TWC)? 0

Note: For job definitions see TAC §9.1051 and Tax Code §313.021(3).

4. What is the number of new qualifying jobs you are committing to create? 1

5. What is the number of new non-qualifying jobs you are estimating you will create? 0

6. Do you intend to request that the governing body waive the minimum new qualifying job creation requirement, as provided under Tax Code §313.025(f-1)? Yes No

- 6a. If yes, attach evidence in **Tab 12** documenting that the new qualifying job creation requirement above exceeds the number of employees necessary for the operation, according to industry standards.

7. Attach in **Tab 13** the four most recent quarters of data for each wage calculation below, including documentation from the TWC website. The final actual statutory minimum annual wage requirement for the applicant for each qualifying job — which may differ slightly from this estimate — will be based on information from the four quarterly periods for which data were available at the time of the application review start date (date of a completed application). See TAC §9.1051(21) and (22).
 - a. Average weekly wage for all jobs (all industries) in the county is 1,069.25

 - b. 110% of the average weekly wage for manufacturing jobs in the county is

 - c. 110% of the average weekly wage for manufacturing jobs in the region is 1,143.98

8. Which Tax Code section are you using to estimate the qualifying job wage standard required for this project? §313.021(5)(A) or §313.021(5)(B)

9. What is the minimum required annual wage for each qualifying job based on the qualified property? 59,487.00

10. What is the annual wage you are committing to pay for each of the new qualifying jobs you create on the qualified property? 59,500.00

11. Will the qualifying jobs meet all minimum requirements set out in Tax Code §313.021(3)? Yes No

12. Do you intend to satisfy the minimum qualifying job requirement through a determination of cumulative economic benefits to the state as provided by §313.021(3)(F)? Yes No
 - 12a. If yes, attach in **Tab 12** supporting documentation from the TWC, pursuant to §313.021(3)(F).

13. Do you intend to rely on the project being part of a single unified project, as allowed in §313.024(d-2), in meeting the qualifying job requirements? Yes No
 - 13a. If yes, attach in **Tab 6** supporting documentation including a list of qualifying jobs in the other school district(s).

SECTION 15: Economic Impact

1. Complete and attach Schedules A1, A2, B, C, and D in **Tab 14**. Note: Excel spreadsheet versions of schedules are available for download and printing at URL listed below.
2. Attach an Economic Impact Analysis, if supplied by other than the Comptroller's Office, in **Tab 15**. (*not required*)
3. If there are any other payments made in the state or economic information that you believe should be included in the economic analysis, attach a separate schedule showing the amount for each year affected, including an explanation, in **Tab 15**.

APPLICATION TAB ORDER FOR REQUESTED ATTACHMENTS

TAB	ATTACHMENT
1	Pages 1 through 11 of Application
2	Proof of Payment of Application Fee
3	Documentation of Combined Group membership under Texas Tax Code 171.0001(7), history of tax default, delinquencies and/or material litigation (<i>if applicable</i>)
4	Detailed description of the project
5	Documentation to assist in determining if limitation is a determining factor
6	Description of how project is located in more than one district, including list of percentage in each district and, if determined to be a single unified project, documentation from the Office of the Governor (<i>if applicable</i>)
7	Description of Qualified Investment
8	Description of Qualified Property
9	Description of Land
10	Description of all property not eligible to become qualified property (<i>if applicable</i>)
11	Maps that clearly show: <ul style="list-style-type: none"> a) Project vicinity b) Qualified investment including location of tangible personal property to be placed in service during the qualifying time period and buildings to be constructed during the qualifying time period c) Qualified property including location of new buildings or new improvements d) Existing property e) Land location within vicinity map f) Reinvestment or Enterprise Zone within vicinity map, showing the actual or proposed boundaries and size Note: Electronic maps should be high resolution files. Include map legends/markers.
12	Request for Waiver of Job Creation Requirement and supporting information (<i>if applicable</i>)
13	Calculation of three possible wage requirements with TWC documentation
14	Schedules A1, A2, B, C and D completed and signed Economic Impact (<i>if applicable</i>)
15	Economic Impact Analysis, other payments made in the state or other economic information (<i>if applicable</i>)
16	Description of Reinvestment or Enterprise Zone, including: <ul style="list-style-type: none"> a) evidence that the area qualifies as a enterprise zone as defined by the Governor's Office b) legal description of reinvestment zone* c) order, resolution or ordinance establishing the reinvestment zone* d) guidelines and criteria for creating the zone* * To be submitted with application or before date of final application approval by school board
17	Signature and Certification page, signed and dated by Authorized School District Representative and Authorized Company Representative (<i>applicant</i>)

TAB 2

Please find on the attached page, a copy of the application fee check in the amount of \$75,000.00 made payable to the Wink-Loving Independent School District.

Proof of payment of filing fee received by the
Comptroller of Public Accounts per TAC Rule
§9.1054 (b)(5)

*(Page Inserted by Office of Texas Comptroller of Public
Accounts)*

TAB 3

Documentation of Combined Group membership under Texas Tax Code 171.0001(7), history of tax default, delinquencies and/or material litigation

N/A

TAB 4

Detailed Description of the Project

Phoebe Energy Project, LLC, proposes to develop a utility-scale, grid-connected solar photovoltaic energy (PV) plant within the Wink-Loving Independent School District.

The project will be constructed on approximately 4,452 acres, which is part of a larger, long-term lease agreement with a local landowner. The project will be located entirely in Winkler County and within the Wink-Loving Independent School District. The proposed project will include, but is not limited to, the following:

- Planned 250 MW-AC in size;
- PV modules;
- DC-to-AC inverters;
- Medium and high-voltage electric cabling;
- Single axis tracker racking system (mounting structures);
- Project substation which will include a high-voltage transformer, switchgear, transmission equipment, telecommunications and SCADA equipment, among other things;
- High-voltage transmission line connecting the project to the grid (gen tie);
- Operations and maintenance (O&M) building including telecommunications and computing equipment, among other things;
- Meteorological equipment to measure solar irradiance and other weather conditions; and
- Associated equipment to safely operate, maintain and deliver electricity to the grid.

The parent company of Phoebe Energy Project, LLC, is a national solar developer with project opportunities all across the United States. The ability to enter into a limited appraisal valuation agreement with the Wink-Loving Independent School District is a motivating factor for constructing the project in Winkler County, Texas, as opposed to building and investing in another state or region where state tax incentives are available. Such additional states where Applicant is considering include Tennessee, North Carolina, Mississippi, Nevada, Georgia, Alabama, Utah, New Mexico, California, Arizona, and Virginia.

TAB 5

Documentation to Assist in Determining if Limitation is a Determining Factor

The applicant's parent company for this project is a national solar developer with the ability to locate projects of this type in other counties and states in the US with strong solar characteristics. The applicant is actively developing other projects throughout the US. The applicant requires this appraised value limitation in order to move forward with constructing this project in Texas. Specifically, without the available tax incentives, the economics of the project become unappealing to investors and the likelihood of constructing the project in Texas becomes unlikely. Other places where Applicant is considering investing and developing projects include states that offer market incentives for generation resources like property tax incentives, including Tennessee, North Carolina, Mississippi, Nevada, Georgia, Alabama (Thebe Project), Utah (Pasithee Project), New Mexico, California, Arizona, and Virginia (Cordelia Project, etc.).

Property taxes can be the highest operating expense for a solar generation facility as solar plants do not have any associated fuel costs for the production of electricity, and with Texas wholesale electricity prices already below the national average in Texas, it is necessary to limit the property tax liabilities for a solar project in order to be able to offer electricity at prices that are marketable to Texas customers at competitive rates, including power sales under a bi-lateral contract. Markets such as California that have state wide available subsidies for renewable energy projects, and which have higher average contracted power rates, offer an attractive incentive for developers to build projects in those markets over Texas.

The property tax liabilities of a project without tax incentives in Texas lowers the return to investors and financiers to an unacceptable level at today's contracted power rates under a power purchase agreement. As such, the applicant is not able to finance and build its project in Texas even with a signed power purchase agreement because of the low price in the power purchase agreement. Without the tax incentive, the applicant would be forced to abandon the project and spend its development capital and prospective investment funds in other states where the rate of return is higher on a project basis.

This is true even if the entity is able to contract with an off-taker under a power purchase agreement because the low rate contracted for is not financeable without the tax incentives. More specifically, a signed power purchase agreement in the Texas market is at a much lower rate than other states because of competitively low electricity prices. Other states have high electricity prices where a developer can obtain a PPA with a much higher contracted rate, combined with state subsidies, the other states offer a much higher rate of return for the project financiers. Without the tax incentives in Texas, a project with a power purchase agreement becomes non-financeable and the developer would have to abandon the project and go to different market.

TAB 6

Additional Districts that Comprise the Project:

There are none. The project is located 100% in the Wink-Loving Independent School District in Winkler County, Texas.

TAB 7

Description of Qualified Investment

Phoebe Energy Project, LLC, anticipates constructing a solar photovoltaic (PV) electric generating facility with an operating capacity of approximately 250 MW ac. The exact capacity and the specific technology components will be determined during the development and design process.

A 250 MW solar PV generating facility may include a qualified investment consisting of the following improvements:

- PV modules;
- DC-to-AC inverters;
- Medium and high-voltage electric cabling;
- Single axis tracking racking system (mounting structures);
- Project substation which will include a high-voltage transformer, switchgear, transmission equipment, telecommunications and SCADA equipment, among other things;
- High-voltage transmission line connecting the project to the grid (gen tie);
- Operations and maintenance (O&M) building including telecommunications and computing equipment, among other things;
- Meteorological equipment to measure solar irradiance and other weather conditions; and
- Associated equipment to safely operate, maintain and deliver electricity to the grid.

TAB 8

Description of Qualified Property

Phoebe Energy Project, LLC, anticipates constructing a solar photovoltaic (PV) electric generating facility with an operating capacity of approximately 250 MW ac. The exact capacity and the specific technology components will be determined during the development and design process.

A 250 MW solar PV generating facility may include a qualified investment consisting of the following improvements:

- PV modules;
- DC-to-AC inverters;
- Medium and high-voltage electric cabling;
- Single axis tracking racking system (mounting structures);
- Project substation which will include a high-voltage transformer, switchgear, transmission equipment, telecommunications and SCADA equipment, among other things;
- High-voltage transmission line connecting the project to the grid (gen tie);
- Operations and maintenance (O&M) building including telecommunications and computing equipment, among other things;
- Meteorological equipment to measure solar irradiance and other weather conditions; and
- Associated equipment to safely operate, maintain and deliver electricity to the grid.

TAB 9

Site Description

The project will be constructed on approximately 4,452 acres, which is part of a larger, long-term lease agreement with a local landowner. The project will be located entirely in Winkler County and within the Wink-Loving Independent School District.

TAB 10

Description of all property not eligible to become qualified property (if applicable)

1. N/A. See attached CAD records.

CONFIDENTIAL

[INSERTED CAD RECORDS ARE CONFIDENTIAL]

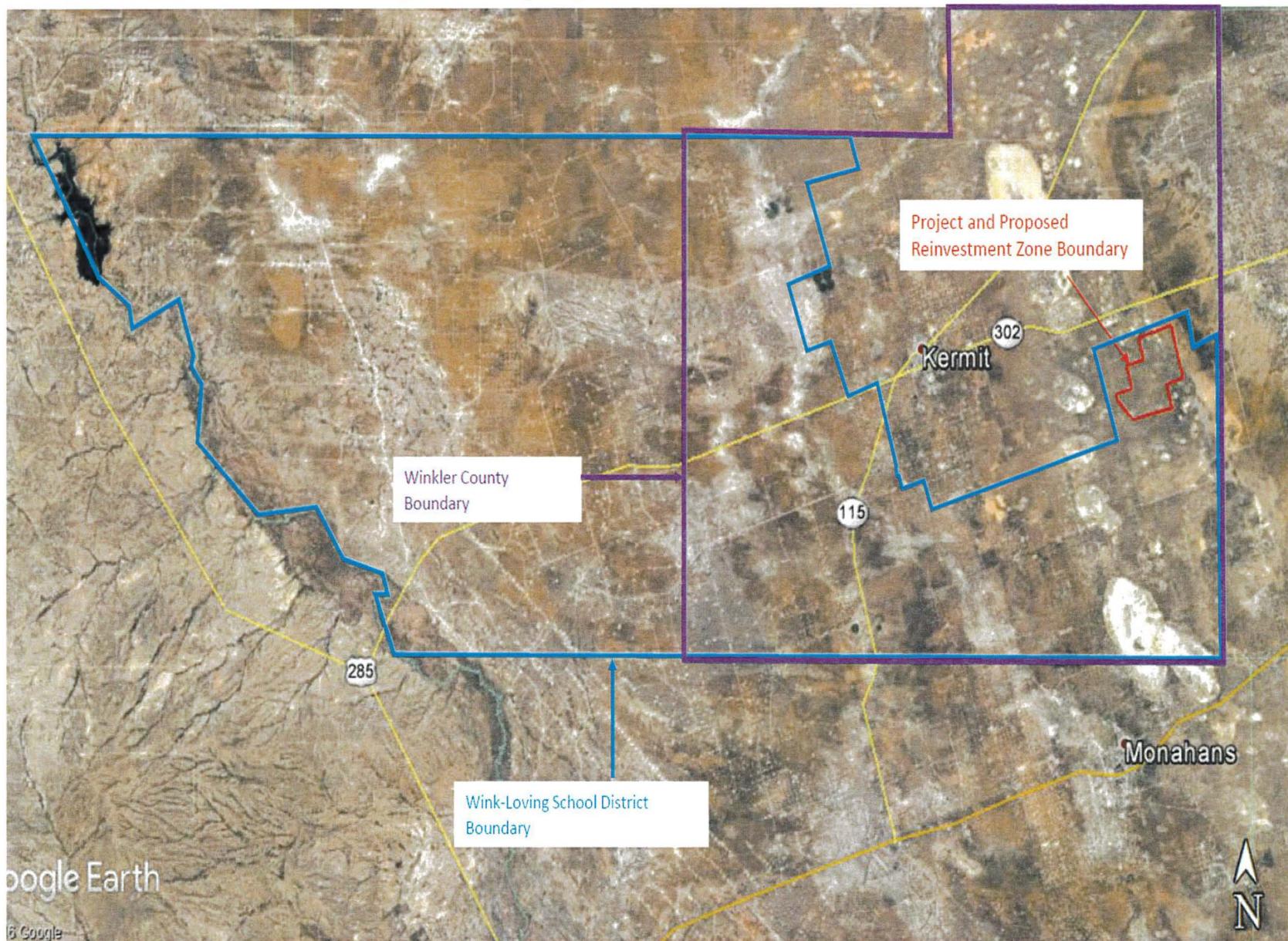
TAB 11

Maps that clearly show:

- *Project vicinity, Qualified investment & property, Existing Property, Land Location, and Reinvestment Zone*

SEE ATTACHED MAPS

Project Vicinity Map and Reinvestment Zone Boundary



TAB 12



Request of Waiver of Job Creation Requirement

September 8, 2017

Scotty Carman, Superintendent
Wink-Loving Independent School District
200 N. Rosey Dodd Avenue
Wink, Texas 79789

Re: Chapter 313 Job Waiver Request

Mr. Carman:

Please consider this letter to be Phoebe Energy Project, LLC's formal request to waive the minimum new job creation requirement, as provided under Texas Tax Code 313.025(f-1).

Based upon knowledge of staffing requirements Phoebe Energy Project, LLC, requests the job creation requirement under Chapter 313 of the Texas Tax Code be waived. In line with solar industry standards for job requirements, Phoebe Energy Project, LLC has committed to create one (1) new permanent job.

Solar projects create a large number of full-time, temporary jobs during the construction phase (1st year), but require a small number of highly skilled technicians to operate the solar project once construction operations end and commercial operations begin.

These permanent employees of a solar energy project maintain and service solar panels, mounting infrastructure, underground electrical connections, substations and other infrastructure associated with the safe and reliable operation of the project. In addition to the onsite employee described above, there also may be asset managers or technicians who supervise, monitor, and support solar project operations from offsite locations.

The waiver request herein is in line with industry standards for the number of jobs specifically relegated to a solar generation facility of this size. This is evidenced by previously filed limitation agreement applications by solar developers who similarly requested a waiver of the job requirements and in addition, by readily available documentation and education materials related to the development of solar generation facilities.

Sincerely,

A handwritten signature in black ink that reads "Scott Pryor".

Scott Pryor

TAB 13

Calculation of three possible wage requirements with supporting documentation

AVERAGE WEEKLY WAGES FOR ALL JOBS, ALL INDUSTRIES IN WINKLER COUNTY
FOUR MOST RECENT QUARTERS

COUNTY	YEAR	QUARTER	Avg. Weekly Wage
Winkler	2016	Q2	\$999
Winkler	2016	Q3	\$1,030
Winkler	2016	Q4	\$1,075
Winkler	2017	Q1	\$1,173
		SUM:	\$4,277
		CALCULATION:	\$4,277/4 = \$1,069.25

AVERAGE WEEKLY WAGES FOR MANUFACTURING JOBS IN WINKLER COUNTY
FOUR MOST RECENT QUARTERS

COUNTY	YEAR	QUARTER	Avg. Weekly Wage
Winkler	2015	Q2	Not Available
Winkler	2016	Q3	Not Available
Winkler	2016	Q4	Not Available
Winkler	2017	Q1	Not Available
		SUM:	N/A
		CALCULATION:	N/A

AVERAGE WEEKLY WAGES FOR MANUFACTURING JOBS IN THE PERMIAN BASIN REGION (WDA)
FOUR MOST RECENT QUARTERS

REGION / WDA	YEAR	Hourly/Annual	Avg. Weekly Wage
Permian Basin	2016	\$26.00/\$54,079	\$1,039.98
		CALCULATION:	\$1,039.98 * 1.1 = \$1,143.98

Please refer to the attached TWC & Council of Governments documentation below.

Quarterly Employment and Wages (QC EW)

[Restart](#) [Back](#) [Print](#) [Download](#)
[Help with Download](#)

Page 1 of 1 (40 results/page)

Year	Period	Area	Ownership	Division	Level	Ind Code	Industry	Avg Weekly Wages
2016	4th Qtr	Winkler County	Total All	00	0	10	Total, all industries	\$1,075
2016	3rd Qtr	Winkler County	Total All	00	0	10	Total, all industries	\$1,030
2016	2nd Qtr	Winkler County	Total All	00	0	10	Total, all industries	\$999
2017	1st Qtr	Winkler County	Total All	00	0	10	Total, all industries	\$1,173
2016	1st Qtr	Winkler County	Total All	00	0	10	Total, all industries	\$1,050

**2016 Manufacturing Average Wages by Council of Government Region
Wages for All Occupations**

COG	Wages	
	Hourly	Annual
Texas		
<u>1. Panhandle Regional Planning Commission</u>	\$25.41	\$52,850
<u>2. South Plains Association of Governments</u>	\$22.52	\$46,834
<u>3. NORTEX Regional Planning Commission</u>	\$18.27	\$38,009
<u>4. North Central Texas Council of Governments</u>	\$24.14	\$50,203
<u>5. Ark-Tex Council of Governments</u>	\$26.06	\$54,215
<u>6. East Texas Council of Governments</u>	\$19.07	\$39,663
<u>7. West Central Texas Council of Governments</u>	\$20.52	\$42,677
<u>8. Rio Grande Council of Governments</u>	\$20.31	\$42,242
<u>9. Permian Basin Regional Planning Commission</u>	\$19.32	\$40,188
<u>10. Concho Valley Council of Governments</u>	\$26.00	\$54,079
<u>11. Heart of Texas Council of Governments</u>	\$18.78	\$39,066
<u>12. Capital Area Council of Governments</u>	\$21.14	\$43,962
<u>13. Brazos Valley Council of Governments</u>	\$30.06	\$62,522
<u>14. Deep East Texas Council of Governments</u>	\$17.66	\$36,729
<u>15. South East Texas Regional Planning Commission</u>	\$18.06	\$37,566
<u>16. Houston-Galveston Area Council</u>	\$33.42	\$69,508
<u>17. Golden Crescent Regional Planning Commission</u>	\$27.52	\$57,246
<u>18. Alamo Area Council of Governments</u>	\$26.38	\$54,879
<u>19. South Texas Development Council</u>	\$21.67	\$45,072
<u>20. Coastal Bend Council of Governments</u>	\$15.02	\$31,235
<u>21. Lower Rio Grande Valley Development Council</u>	\$27.85	\$57,921
<u>22. Texoma Council of Governments</u>	\$17.55	\$36,503
<u>23. Central Texas Council of Governments</u>	\$20.98	\$43,648
<u>24. Middle Rio Grande Development Council</u>	\$18.65	\$38,783
	\$23.05	\$47,950

Source: Texas Occupational Employment and Wages

Data published: July 2017

TAB 14

Schedules A1, A2, B, C, and D completed and signed Economic Impact

See attached Excel Spreadsheet

Schedule A1: Total Investment for Economic Impact (through the Qualifying Time Period)

Date 9/6/2017
 Applicant Name Phoebe Energy Project, LLC
 ISD Name Wink-Loving ISD

Form 50-296A
 Revised May 2014

PROPERTY INVESTMENT AMOUNTS							
(Estimated Investment in each year. Do not put cumulative totals.)							
			Column A	Column B	Column C	Column D	Column E
	Year	School Year (YYYY-YYYY)	Tax Year (Fill in actual tax year below) YYYY	New investment (original cost) in tangible personal property placed in service during this year that will become Qualified Property	New investment made during this year in buildings or permanent nonremovable components of buildings that will become Qualified Property	Other new investment made during this year that will not become Qualified Property [SEE NOTE]	Other new investment made during this year that may become Qualified Property [SEE NOTE]
Investment made before filing complete application with district			2017	Not eligible to become Qualified Property		[The only other investment made before filing complete application with district that may become Qualified Property is land.]	0
Investment made after filing complete application with district, but before final board approval of application	--	Year preceding the first complete tax year of the qualifying time period (assuming no deferrals of qualifying time period)	2018	0	0	0	0
Investment made after final board approval of application and before Jan. 1 of first complete tax year of qualifying time period				218,000,000	500,000	0	218,500,000
Complete tax years of qualifying time period	QTP1	2019-2020	2019	3,630,000	0	0	3,630,000
	QTP2	2020-2021	2020	3,630,000	0	0	3,630,000
Total Investment through Qualifying Time Period [ENTER this row in Schedule A2]				225,260,000	500,000	0	225,760,000
Enter amounts from TOTAL row above in Schedule A2							
Total Qualified Investment (sum of green cells)				225,760,000			

For All Columns: List amount invested each year, not cumulative totals.

Column A: This represents the total dollar amount of planned investment in tangible personal property. Only include estimates of investment for "replacement" property if the property is specifically described in the application.

Only tangible personal property that is specifically described in the application can become qualified property.

Column B: The total dollar amount of planned investment each year in buildings or nonremovable component of buildings.

Column C: Dollar value of other investment that may affect economic impact and total value. Examples of other investment that will not become qualified property include investment meeting the definition of 313.021(1) but not creating a new improvement as defined by TAC 9.1051. This is proposed property that functionally replaces existing property; is used to maintain, refurbish, renovate, modify or upgrade existing property; or is affixed to existing property—described in SECTION 13, question #5 of the application.

Column D: Dollar value of other investment that may affect economic impact and total value. Examples of other investment that may result in qualified property are land or professional services.

Total Investment: Add together each cell in a column and enter the sum in the blue total investment row. Enter the data from this row into the first row in Schedule A2.

Qualified Investment: For the green qualified investment cell, enter the sum of all the green-shaded cells.

Schedule A2: Total Investment for Economic Impact (including Qualified Property and other investments)

Date 9/6/2017
 Applicant Name Phoebe Energy Project, LLC
 ISD Name Wink-Loving ISD

Form 50-296A
 Revised May 2014

PROPERTY INVESTMENT AMOUNTS									
				(Estimated Investment in each year. Do not put cumulative totals.)					
			Column A	Column B	Column C	Column D	Column E		
			New investment (original cost) in tangible personal property placed in service during this year that will become Qualified Property	New investment made during this year in buildings or permanent nonremovable components of buildings that will become Qualified Property	Other investment made during this year that will <u>not</u> become Qualified Property [SEE NOTE]	Other investment made during this year that will become Qualified Property {SEE NOTE}	Total Investment (A+B+C+D)		
			Enter amounts from TOTAL row in Schedule A1 in the row below						
Total Investment from Schedule A1*			TOTALS FROM SCHEDULE A1			0	0	225,760,000	
Each year prior to start of value limitation period** <i>Insert as many rows as necessary</i>			0	2017-2018	2017	0	0	0	0
Each year prior to start of value limitation period** <i>Insert as many rows as necessary</i>			0	2018-2019	2018	218,000,000	500,000	0	218,500,000
Each year prior to start of value limitation period** <i>Insert as many rows as necessary</i>			0	2019-2020	2019	3,630,000	0	0	3,630,000
Value limitation period***	1	2020-2021	2020	0	0	3,630,000	0	0	3,630,000
	2	2021-2022	2021	0	0	3,706,000	0	0	3,706,000
	3	2022-2023	2022	0	0	3,780,251	0	0	3,780,251
	4	2023-2024	2023	0	0	3,855,856	0	0	3,855,856
	5	2024-2025	2024	0	0	3,932,973	0	0	3,932,973
	6	2025-2026	2025	0	0	4,702,148	0	0	4,702,148
	7	2026-2027	2026	0	0	4,796,191	0	0	4,796,191
	8	2027-2028	2027	0	0	4,892,114	0	0	4,892,114
	9	2028-2029	2028	0	0	4,989,957	0	0	4,989,957
	10	2029-2030	2029	0	0	5,089,756	0	0	5,089,756
Total Investment made through limitation			221,630,000	500,000	43,375,245	0	265,505,245		
Continue to maintain viable presence	11	2030-2031	2030				5,191,551		
	12	2031-2032	2031				5,295,382		
	13	2032-2033	2032				5,401,290		
	14	2033-2034	2033				5,509,315		
	15	2034-2035	2034				5,619,502		
Additional years for 25 year economic impact as required by 313.026(c)(1)	16	2035-2036	2035				5,731,892		
	17	2036-2037	2036				5,846,530		
	18	2037-2038	2037				5,963,460		
	19	2038-2039	2038				6,082,729		
	20	2039-2040	2039				6,204,384		
	21	2040-2041	2040				6,328,472		
	22	2041-2042	2041				6,455,041		
	23	2042-2043	2042				6,584,142		
	24	2043-2044	2043				6,715,825		
	25	2044-2045	2044				6,850,141		

* All investments made through the qualifying time period are captured and totaled on Schedule A1 [blue box] and incorporated into this schedule in the **first row**.

** Only investment made during deferrals of the start of the limitation (after the end of qualifying time period but before the start of the Value Limitation Period) should be included in the "year prior to start of value limitation period" row(s). If the limitation starts at the end of the qualifying time period or the qualifying time period overlaps the limitation, no investment should be included on this line.

*** If your qualifying time period will overlap your value limitation period, do not also include investment made during the qualifying time period in years 1 and/or 2 of the value limitation period, depending on the overlap. Only include investments/years that were **not** captured on Schedule A1.

For All Columns: List amount invested each year, not cumulative totals. Only include investments in the remaining rows of Schedule A2 that were not captured on Schedule A1.

Column A: This represents the total dollar amount of planned investment in tangible personal property. Only include estimates of investment for "replacement" property if the property is specifically described in the application.

Only tangible personal property that is specifically described in the application can become qualified property.

Column B: The total dollar amount of planned investment each year in buildings or nonremovable component of buildings.

Column C: Dollar value of other investment that may affect economic impact and total value. Examples of other investment that will not become qualified property include investment meeting the definition of 313.021(1) but not creating a new improvement as defined by TAC 9.1051. This is proposed property that functionally replaces existing property; is used to maintain, refurbish, renovate, modify or upgrade existing property; or is affixed to existing property—described in SECTION 13, question #5 of the application.

Column D: Dollar value of other investment that may affect economic impact and total value. Examples of other investment that may result in qualified property are land or professional services.

Schedule B: Estimated Market And Taxable Value (of Qualified Property Only)

9/6/2017

Phoebe Energy Project, LLC

Form 50-296A

Revised May 2014

Date

Applicant Name

ISD Name

Wink-Loving ISD

	Year	School Year (YYYY-YYYY)	Tax Year (Fill in actual tax year) YYYY	Qualified Property			Estimated Taxable Value		
				Estimated Market Value of Land	Estimated Total Market Value of new buildings or other new improvements	Estimated Total Market Value of tangible personal property in the new buildings or "in or on the new improvements"	Market Value less any exemptions (such as pollution control) and before limitation	Final taxable value for I&S after all reductions	Final taxable value for M&O after all reductions
Each year prior to start of Value Limitation Period	0	2017-2018	2017	0	0	0	0	0	0
	0	2018-2019	2018	0	0	0	0	0	0
	0	2019-2020	2019	0	500,000	3,630,000	4,130,000	4,130,000	4,130,000
Value Limitation Period	1	2020-2021	2020	0	500,000	225,260,000	225,760,000	225,760,000	25,000,000
	2	2021-2022	2021	0	475,000	191,471,000	191,946,000	191,946,000	25,000,000
	3	2022-2023	2022	0	451,250	162,750,350	163,201,600	163,201,600	25,000,000
	4	2023-2024	2023	0	428,688	138,337,798	138,766,485	138,766,485	25,000,000
	5	2024-2025	2024	0	407,253	117,587,128	117,994,381	117,994,381	25,000,000
	6	2025-2026	2025	0	386,890	99,949,059	100,335,949	100,335,949	25,000,000
	7	2026-2027	2026	0	367,546	84,956,700	85,324,246	85,324,246	25,000,000
	8	2027-2028	2027	0	349,169	72,213,195	72,562,364	72,562,364	25,000,000
	9	2028-2029	2028	0	331,710	61,381,216	61,712,926	61,712,926	25,000,000
	10	2029-2030	2029	0	315,125	52,174,033	52,489,158	52,489,158	25,000,000
Continue to maintain viable presence	11	2030-2031	2030	0	299,368	45,052,000	45,351,368	45,351,368	45,351,368
	12	2031-2032	2031	0	284,400	45,052,000	45,336,400	45,336,400	45,336,400
	13	2032-2033	2032	0	270,180	45,052,000	45,322,180	45,322,180	45,322,180
	14	2033-2034	2033	0	256,671	45,052,000	45,308,671	45,308,671	45,308,671
	15	2034-2035	2034	0	243,837	45,052,000	45,295,837	45,295,837	45,295,837
Additional years for 25 year economic impact as required by 313.026(c)(1)	16	2035-2036	2035	0	231,646	45,052,000	45,283,646	45,283,646	45,283,646
	17	2036-2037	2036	0	220,063	45,052,000	45,272,063	45,272,063	45,272,063
	18	2037-2038	2037	0	209,060	45,052,000	45,261,060	45,261,060	45,261,060
	19	2038-2039	2038	0	198,607	45,052,000	45,250,607	45,250,607	45,250,607
	20	2039-2040	2039	0	188,677	45,052,000	45,240,677	45,240,677	45,240,677
	21	2040-2041	2040	0	179,243	45,052,000	45,231,243	45,231,243	45,231,243
	22	2041-2042	2041	0	170,281	45,052,000	45,222,281	45,222,281	45,222,281
	23	2042-2043	2042	0	161,767	45,052,000	45,213,767	45,213,767	45,213,767
	24	2043-2044	2043	0	153,678	45,052,000	45,205,678	45,205,678	45,205,678
	25	2044-2045	2044	0	145,995	45,052,000	45,197,995	45,197,995	45,197,995

Notes: Market value in future years is good faith estimate of future taxable value for the purposes of property taxation.

Only include market value for eligible property on this schedule.

Schedule C: Employment Information

Date

9/6/2017

Applicant Name

Phoebe Energy Project, LLC

ISD Name

Wink-Loving ISD

Form 50-296A

Revised May 2014

				Construction		Non-Qualifying Jobs	Qualifying Jobs	
				Column A	Column B	Column C	Column D	Column E
	Year	School Year (YYYY-YYYY)	Tax Year (Actual tax year) YYYY	Number of Construction FTE's or man-hours (specify)	Average annual wage rates for construction workers	Number of non-qualifying jobs applicant estimates it will create (cumulative)	Number of new qualifying jobs applicant commits to create meeting all criteria of Sec. 313.021(3) (cumulative)	Average annual wage of new qualifying jobs
Each year prior to start of Value Limitation Period <i>Insert as many rows as necessary</i>	0	2017-2018	2017	0	0	0	0	0
	0	2018-2019	2018	100 FTE	50,000	0	0	0
	0	2019-2020	2019	350 FTE	50,000			
Value Limitation Period <i>The qualifying time period could overlap the value limitation period.</i>	1	2020-2021	2020	N/A	N/A	0	1	59,500
	2	2021-2022	2021	N/A	N/A	0	1	59,500
	3	2022-2023	2022	N/A	N/A	0	1	59,500
	4	2023-2024	2023	N/A	N/A	0	1	59,500
	5	2024-2025	2024	N/A	N/A	0	1	59,500
	6	2025-2026	2025	N/A	N/A	0	1	59,500
	7	2026-2027	2026	N/A	N/A	0	1	59,500
	8	2027-2028	2027	N/A	N/A	0	1	59,500
	9	2028-2029	2028	N/A	N/A	0	1	59,500
	10	2029-2030	2029	N/A	N/A	0	1	59,500
Years Following Value Limitation Period	11 through 25	2030-2044	2030-2044	N/A	N/A	0	1	59,500

Notes: See TAC 9.1051 for definition of non-qualifying jobs.

Only include jobs on the project site in this school district.

C1. Are the cumulative number of qualifying jobs listed in Column D less than the number of qualifying jobs required by statute? (25) Yes No

If yes, answer the following two questions:

C1a. Will the applicant request a job waiver, as provided under 313.025(f-1)? Yes No

C1b. Will the applicant avail itself of the provision in 313.021(3)(F)? Yes No

Schedule D: Other Incentives (Estimated)

Date

9/6/2017

Applicant Name

Phoebe Energy Project, LLC

ISD Name

Wink-Loving ISD

Form 50-296A

Revised May 2014

State and Local Incentives for which the Applicant intends to apply (Estimated)

Incentive Description	Taxing Entity (as applicable)	Beginning Year of Benefit	Duration of Benefit	Annual Tax Levy without Incentive	Annual Incentive	Annual Net Tax Levy
Tax Code Chapter 311	County:	N/A	N/A	N/A	N/A	N/A
	City:	N/A	N/A	N/A	N/A	N/A
	Other:	N/A	N/A	N/A	N/A	N/A
Tax Code Chapter 312	County: Winkler County	2020	10 Years	1,950,000	75%	487,500
	City:	N/A	N/A	N/A	N/A	N/A
	Other:	N/A	N/A	N/A	N/A	N/A
Local Government Code Chapters 380/381	County:	N/A	N/A	N/A	N/A	N/A
	City:	N/A	N/A	N/A	N/A	N/A
	Other:	N/A	N/A	N/A	N/A	N/A
Freeport Exemptions	N/A	N/A	N/A	N/A	N/A	N/A
Non-Annexation Agreements	N/A	N/A	N/A	N/A	N/A	N/A
Enterprise Zone/Project	N/A	N/A	N/A	N/A	N/A	N/A
Economic Development Corporation	N/A	N/A	N/A		N/A	
Texas Enterprise Fund	N/A	N/A	N/A		N/A	
Employee Recruitment	N/A	N/A	N/A		N/A	
Skills Development Fund	N/A	N/A	N/A		N/A	
Training Facility Space and Equipment	N/A	N/A	N/A		N/A	
Infrastructure Incentives	N/A	N/A	N/A		N/A	
Permitting Assistance	N/A	N/A	N/A		N/A	
Other:	N/A	N/A	N/A		N/A	
Other:	N/A	N/A	N/A		N/A	
Other:	N/A	N/A	N/A		N/A	
Other:	N/A	N/A	N/A		N/A	
TOTAL				1,950,000		487,500

Additional information on incentives for this project:

Winkler County Terms: 10 year abatement at 75%.
--

TAB 15

Economic Impact

Phoebe Energy Project, LLC, will not be including an Economic Impact Report.

CONFIDENTIAL

TAB 16

Description of Reinvestment Zone, including:

- A. Evidence that the area qualifies as an reinvestment zone*
- B. Legal description of the reinvestment zone*
- C. Order, resolution or ordinance establishing the reinvestment zone*
- D. Guidelines and criteria for creating the zone*

Order Establishing Reinvestment Zone

[ATTACHED ON SUBSEQUENT PAGES]

**RESOLUTION OF THE
WINKLER COUNTY COMMISSIONERS COURT**

**A RESOLUTION DESIGNATING A CERTAIN AREA AS A REINVESTMENT ZONE
FOR TEXAS TAX CODE CHAPTER 312 TAX ABATEMENT IN PORTIONS OF
WINKLER COUNTY, TEXAS, TO BE KNOWN AS THE "HENRY" REINVESTMENT
ZONE; ESTABLISHING THE BOUNDARIES THEREOF; AND PROVIDING FOR AN
EFFECTIVE DATE.**

WHEREAS, Winkler County, Texas, desires to promote the development or redevelopment of a certain contiguous geographic area within its jurisdiction by the creation of a reinvestment zone as authorized by the Property Redevelopment and Tax Abatement Act, as amended (V.T.C.A. Texas Tax Code § 312.401), for the purpose of authorizing a Tax Abatement Agreement, as authorized by Chapter 312 of the Texas Tax Code; and,

WHEREAS, Winkler County, Texas, (the "County") desires to encourage the retention or expansion of primary employment and to attract major investment in the County that would be a benefit to property in a reinvestment zone created by the County and that would contribute to the economic development of the County;

WHEREAS, the County has adopted guidelines and criteria governing tax abatement agreements in a resolution dated on or about March 25, 2013; and,

WHEREAS, pursuant to statute, the County refreshed the aforesaid guidelines and criteria governing tax abatement in a resolution dated May 8th, 2017 (the "Abatement Guidelines and Criteria"); and,

WHEREAS, on May 22, 2017, the Winkler County Commissioners Court held a hearing, such date being at least seven (7) days after the date of publication of the notice of such public hearing, and the delivery of written notice to the respective presiding officers of each taxing entity which includes within its boundaries real property that is to be included in the proposed reinvestment zone as described on EXHIBIT A and mapped on EXHIBIT B; and,

WHEREAS, the Winkler County Commissioners Court at such public hearing invited any interested person to appear and speak for or against (1) the creation of the reinvestment zone, and whether all or part of the territory described should be included in the proposed reinvestment zone, and (2) acceptance of an Application for Tax Abatement by Phoebe Energy Project, LLC, for Winkler County to consider entering into a Tax Abatement Agreement; and,

WHEREAS, the proponents of the reinvestment zone offered evidence, both oral and documentary, in favor of all of the foregoing matters relating to the creation of the reinvestment zone and opponents, if any, of the reinvestment zone appeared to contest the creation of the reinvestment zone; and,

WHEREAS, the County wishes to (1) create a reinvestment zone consisting of the same real property as described on EXHIBIT A and mapped on EXHIBIT B, and (2) accept the Application for Tax Abatement by Phoebe Energy Project, LLC.

NOW THEREFORE, BE IT RESOLVED BY THE WINKLER COUNTY COMMISSIONERS COURT:

SECTION 1. That the facts and recitations contained in the preamble of this Resolution are hereby found and declared to be true and correct.

SECTION 2. That the Winkler County Commissioners Court, after conducting such hearing and having heard such evidence and testimony, has made the following findings and determinations based on the evidence and testimony presented to it:

- (a) That the public hearing on the adoption of the "Henry" Reinvestment Zone has been properly called, held, and conducted, and that notices of such hearing have been published as required by law and mailed to the respective presiding officers of the governing bodies of all taxing units overlapping the territory inside the proposed reinvestment zone; and,
- (b) That the boundaries of the "Henry" Reinvestment Zone be and, by the adoption of this Resolution, are declared and certified to be, the area as described in the description attached hereto as "EXHIBIT A"; and,
- (c) That the map attached hereto as "EXHIBIT B" is declared to be and (by the adoption of this Resolution) is certified to depict and to show accurately the boundaries of the "Henry" Reinvestment Zone, which is normatively described in "EXHIBIT A", and further certifies that the property described in "EXHIBIT A" is inside the boundaries shown on "EXHIBIT B"; and,
- (d) That creation of the "Henry" Reinvestment Zone with boundaries as described in "EXHIBIT A" and "EXHIBIT B" will result in benefits to Winkler County and to land included in the zone, and that the improvements sought are feasible and practical; and,
- (e) That the "Henry" Reinvestment Zone described in "EXHIBIT A" and "EXHIBIT B" meets the criteria set forth in Texas Tax Code §312.401 for the creation of a reinvestment zone as set forth in the Property Redevelopment and Tax Abatement Act, as amended, in that it is reasonably likely that the designation will contribute to the retention or expansion of primary employment, and/or will attract major investment in the zone that will be a benefit to the property to be included in the reinvestment zone and would contribute to the economic development of Winkler County, Texas.

SECTION 3. That pursuant to the Property Redevelopment and Tax Abatement Act, as amended, the Winkler County Commissioners Court, hereby creates a reinvestment zone under

the provisions of Texas Tax Code § 312.401, encompassing the area described by the descriptions in "EXHIBIT A" and "EXHIBIT B", and such reinvestment zone is hereby designated and shall hereafter be referred to as the *Henry Reinvestment Zone*.

SECTION 4. That the *Henry Reinvestment Zone* shall take effect upon adoption by the County Commissioners Court and shall remain designated as a commercial-industrial reinvestment zone for a period of five (5) years from such date of such designation.

SECTION 5. That the Winkler County Commissioners Court already has found and resolved that Winkler County is eligible to enter into tax abatement agreements.

SECTION 6. That the Winkler County Commissioners Court accepts the Application for Tax Abatement submitted by Phoebe Energy Project, LLC.

SECTION 7. That if any section, paragraph, clause, or provision of this resolution shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect any of the remaining provisions of this resolution.

SECTION 8. That it is hereby found, determined, and declared that a sufficient notice of the date, hour, place, and subject of the meeting of the Winkler County Commissioners Court, at which this resolution was adopted, was posted at a place convenient and readily accessible at all times, as required by the Texas Open Government Act, Texas Government Code, Chapter 551, as amended; and that a public hearing was held prior to the designation of such reinvestment zone, and that proper notice of the hearing was published in newspapers of general circulation in Winkler County of the State of Texas; and that, furthermore, such notice was in fact delivered to the presiding officer of any effected taxing entity as prescribed by the Property Redevelopment and Tax Abatement Act.

PASSED, APPROVED, AND ADOPTED on this 22nd day of May, 2017.

WINKLER COUNTY, TEXAS

By:

The Honorable Charles M. Wolf
County Judge

By:

Billy J. Steven
Commissioner, Precinct 1

By:

Robbie Wolf
Commissioner, Precinct 2

By:

Hope Williams
Commissioner, Precinct 3

By:

Billy Ray Thompson
Commissioner, Precinct 4

ATTEST
Shethella Reed
Winkler County Clerk

Guidelines & Criteria for Creating the Reinvestment Zone

[ATTACHED ON SUBSEQUENT PAGES]

COMMISSIONERS COURT §
 §
WINKLER COUNTY §

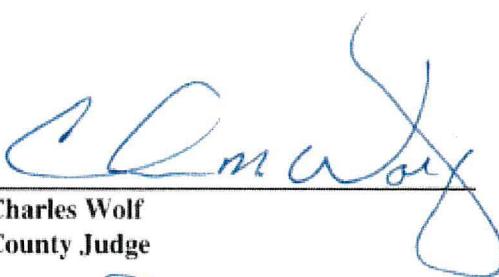
**RESOLUTION APPROVING WINKLER COUNTY'S
TAX ABATEMENT GUIDELINES AND CRITERIA**

WHEREAS, The Winkler County Commissioner's Court met in a regularly called session on May 8, 2017 and found that the Winkler County Tax Abatement Guidelines and Criteria have been reviewed; and

WHEREAS, This Court wishes to renew the Criteria and Guidelines, as revised, for the purpose of making tax abatement incentives available within the County;

NOW, THEREFORE, BE IT RESOLVED that the attached Tax Abatement Guidelines and Criteria are hereby approved and renewed for a period of two years effective May 8, 2017.

PASSED AND APPROVED on the 8th day of May, 2017 by the Winkler County Commissioners Court.

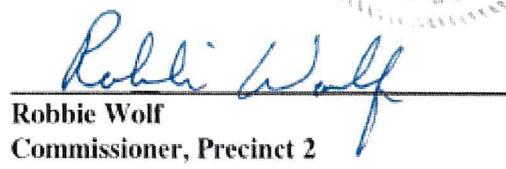

Charles Wolf
County Judge


Billy Stevens
Commissioner, Precinct 1


Hope Williams
Commissioner, Precinct 3

ATTEST:


Shethelia Reed
County Clerk


Robbie Wolf
Commissioner, Precinct 2


Billy Ray Thompson
Commissioner, Precinct 4

**WINKLER COUNTY
STATE OF TEXAS**

TAX ABATEMENT GUIDELINES AND CRITERIA

The following Guidelines and Criteria have been adopted by the Winkler County Commissioners' Court to establish a uniform policy of tax abatement for owners or lessees of eligible facilities willing to execute tax abatement contracts designed to provide long-term significant positive economic impact to the community by utilizing the area contractors and work force to the maximum extent feasible, and by developing, redeveloping, and improving property, except as otherwise provided.

In order to be eligible for designation as a Reinvestment Zone and receive tax abatement, the planned improvement:

1. Must be reasonably expected to have an increase in positive net economic benefit to Winkler County of at least \$1,000,000.00 over the life of the abatement, computed to include (but not limited to) new sustaining payroll and/or capital improvement. The creation of (number and type) of new jobs will also factor into the decision to grant an abatement; and,
2. Must not be expected to solely or primarily have the effect of transferring employment from one part of Winkler County to another.

In addition to the criteria set forth above, the Winkler County Commissioners' Court reserves the right to negotiate a Tax Abatement Agreement in order to compete favorably with other communities.

Only that increase in the fair market of the property directly resultant from the development, redevelopment, and improvement specified in the contract will be eligible for abatement and then only to the extent that such increase exceeds any reduction in the fair market value of the other property of the applicant located within the jurisdiction creating the Reinvestment Zone.

All abatement contracts will be for a term no longer than allowed by law.

It is the goal of Winkler County to grant tax abatements on the same terms and conditions as the other taxing units having jurisdiction of the property. However, nothing herein shall limit the discretion of the Winkler County Commissioners' Court to consider, adopt, modify or decline any tax abatement request.

This policy is effective as of the date adopted by the Winkler County Commissioners' Court and shall at all times be kept current with regard to the needs of Winkler County and reflective of the official views of the County Commissioners' Court. These Guidelines and Criteria shall be reviewed every two (2) years.

The adoption of these guidelines and criteria by the Winkler County Commissioners' Court does not:

1. Limit the discretion of the governing body to decide whether to enter into a specific Tax Abatement Agreement;
2. Limit the discretion of the governing body to delegate to its employees the authority to determine whether or not the governing body should consider a particular application or request for tax abatement; or,
3. Create any property, contract, or other legal right in any person to have the governing body consider or grant a specific application or request for tax abatement.

DEFINITIONS – SECTION I

- A. "Abatement" means the full or partial exemption from ad valorem taxes of certain property in a reinvestment zone designated by Winkler County or the Cities of Kermit and/or Wink for economic development purposes.
- B. "Agreement" means a contractual agreement between a property owner and/or lessee and Winkler County.
- C. "Base Year Value" means the assessed value on the eligible property as of January 1 preceding the execution of the agreement.
- D. "Deferred Maintenance" means improvements necessary for continued operation which do not improve productivity or alter the process technology.
- E. "Eligible Facilities" means new, expanded, or modernized buildings and structures, including fixed machinery and equipment, which is reasonably likely as a result of granting the abatement to contribute to the retention or expansion of primary employment or to attract major investment in the reinvestment zone that would be a benefit to the property and that would contribute to the economic development of Winkler County, but does not include facilities which are intended to be primarily to provide goods or services to residents for existing businesses located in Winkler County such as, but not limited to, restaurants and retail sales establishments. Eligible facilities may include, but shall not be limited to, hotels and office buildings.
- F. "Expansion" means the addition of building structures, machinery, equipment or payroll for purposes of increasing production capacity.
- G. "Facility" means property improvement(s) completed or in the process of construction which together comprise an interregional whole.
- H. "Modernization" means a complete or partial demolition of facilities and the complete or partial reconstruction or installation of a facility of similar or expanded production capacity. Modernization may result from the construction, alteration, or installation of building, structures, machinery, or equipment, or both.
- I. "New Facility" means a property previously undeveloped which is placed into service by means other than or in conjunction with expansion or modernization.
- J. "Productive Life" means the number of years property improvement(s) is/are expected to be in service in a facility.

ABATEMENT AUTHORIZED – SECTION II

- A. Eligible Facilities. Upon application, eligible facilities shall be considered for tax abatement as hereinafter provided.
- B. Creation of New Values. Abatement may only be granted for the additional value of eligible property improvement(s) made subsequent to and specified in an abatement agreement between Winkler County and the property owner or lessee, subject to such limitations as Winkler County may require.
- C. New and Existing Facilities. Abatement may be granted for the additional value of eligible property improvement(s) made subsequent to and specified in an abatement agreement between Winkler County and the property owner or lessee, subject to such limitations as Winkler County may require.
- D. Eligible Property. Abatement may be extended to the value of the buildings, structures, fixed machinery and equipment, site improvements, and related fixed improvements necessary to the operation and administration of the facility.

- E. Ineligible Property. The following types of property shall be fully taxable and ineligible for tax abatement: land; supplies; tools; furnishings, and other forms of movable personal property; housing; deferred maintenance; property to be rented or leased, except as provided in Section II(F); property which has a productive life of less than ten (10) years.
- F. Owned/Leased Facilities. If a leased facility is granted abatement, the agreement shall be executed with the lessor and the lessee.
- G. Economic Qualifications. In order to be eligible for designation as a reinvestment zone and receive tax abatement, the planned improvement:
- (1) Must be reasonably expected to have an increase in positive net economic benefit to Winkler County of at least \$1,000,000.00 over the life of the abatement agreement, computed to include (but not limited to) new sustaining payroll and/or capital improvement. The creation of (number and type) new jobs will also factor into the decision to grant an abatement; and
 - (2) Must not be expected to solely or primarily have the effect of transferring employment from one part of Winkler County to another.
- H. Standards for Tax Abatement. The following factors, among others, shall be considered in determining whether to grant tax abatement:
- (1) Value of existing improvements, if any;
 - (2) Type and value of proposed improvements;
 - (3) Productive life of proposed improvements;
 - (4) Number of existing jobs to be retained by proposed improvements;
 - (5) Number and type of new jobs to be created by proposed improvements;
 - (6) Amount of local payroll to be created;
 - (7) Whether the new jobs to be created will be filled by persons residing or projected to reside within affected taxing jurisdiction;
 - (8) Amount which property tax base valuation will be increased during the term of abatement and after abatement, which shall include a definitive commitment that such valuation shall not, in any case, be less than \$1,000,000.00;
 - (9) The costs to be incurred by Winkler County to provide facilities directly resulting from the new improvements;
 - (10) The amount of ad valorem taxes to be paid to Winkler County during the abatement period considering (a) the existing values, (b) the percentage of new value abated, (c) the abatement period, and (d) the value after expiration of the abatement period;
 - (11) The population growth of Winkler County that occurs directly as a result of new improvements;
 - (12) The types and values of public improvements, if any, to be made by applicant seeking abatement;
 - (13) Whether the proposed improvements compete with existing businesses to the detriment of the local economy;
 - (14) The impact on the business opportunities of existing business;
 - (15) The attraction of other new businesses to the area;

- (16) The overall compatibility with the zoning ordinances and comprehensive plan for the area;
- (17) Whether the project obtains all necessary permits from the applicable environmental agencies.

Each eligible facility shall be reviewed on its merits utilizing the factors provided above. After such review, abatement may be denied entirely or may be granted to the extent deemed appropriate after full evaluation.

- I. **Denial of Abatement**. Neither a reinvestment zone nor abatement agreement shall be authorized if it is determined that:

- (1) There would be substantial adverse effect on the provision of government services or tax base;
- (2) The applicant has insufficient financial capacity;
- (3) Planned or potential use of the property would constitute a hazard to public safety, health, or morals;
- (4) Violation of other codes or laws; or
- (5) Any other reason deemed appropriate by Winkler County.

- J. **Taxability**. From the execution of the abatement to the end of the agreement period, taxes shall be payable as follows:

- (1) The value of ineligible property as provided in Section II(E) shall be fully taxable; and
- (2) The base year value of existing eligible property as determined each year shall be fully taxable.

The additional value of new eligible property shall be fully taxable at the end of the abatement period.

APPLICATION – SECTION III

- A. Any present or potential owner of taxable property in Winkler County may request the creation of a reinvestment zone and tax abatement by filing a written application with the County Judge of Winkler County.
- B. The application shall consist of a general description of the new improvements to be undertaken; a descriptive list of the improvements for which an abatement is requested; a list of the kind, number and location of all proposed improvements of the property; a map and property description; a time schedule for undertaking and completing the proposed improvements. In the case of modernization, a statement of the assessed value of the facility, separately stated for real and personal property, shall be given for the tax year immediately preceding the application. The County may require such financial and other information as deemed appropriate for evaluating the financial capacity and other factors pertaining to the applicant, to be attached to this application. The completed application must be accompanied by the payment of a non-refundable application fee for administrative costs associated with the processing of the tax abatement request. All checks in payment of the administrative fee shall be made payable to Winkler County. For abatement requests for improvements with a planned value equal to or in excess of \$1,000,000.00, the fee shall be ONE THOUSAND AND NO/100 DOLLARS (\$1,000.00).
- C. Winkler County shall give notice as provided by the Property Tax Code, including written notice to the presiding officer of the governing body of each taxing unit in which the property to be subject to the agreement is located, not later than seven (7) days before

the public hearing, and publication in a newspaper of general circulation within such taxing jurisdiction no later than the seventh day before the public hearing. Before acting upon the application, Winkler County shall, through public hearing, afford the applicant and the designated representative of any governing body referenced herein above, and the public the opportunity to show cause why the abatement should or should not be granted.

- D. If a city within Winkler County designates a reinvestment zone within its corporate limits and enters into or proposes to enter into an abatement agreement with a present or potential owner of a taxable property, such present or potential owner of taxable property may request tax abatement by Winkler County by following the same application process described in Section III(A) hereof. No other notice of hearing shall be required except compliance with the open meetings act unless the Commissioners' Court deems them necessary in a particular case.

AGREEMENT – SECTION IV

- A. After approval, the Commissioners' Court of Winkler County shall formally pass a resolution and execute an agreement with the owner of the facility and lessee as required which shall:
1. Include a list of the kind, number and location of all proposed improvements to the property;
 2. Provide access to and authorize inspection of the property by the taxing unit to insure compliance with the agreement;
 3. Limit the use of the property consistent with the taxing unit's development goals;
 4. Provide for recapturing property tax revenues that are lost if the owner fails to make improvements as provided by the agreement;
 5. Include each term that was agreed upon with the property owner and require the owner to annually certify compliance with the terms of the agreement to each taxing unit; and
 6. Allow the taxing unit to cancel or modify the agreement at any time if the property owner fails to comply with the terms of the agreement.
- B. The owner of the facility and lessee shall also agree to the following:
1. A specified number of permanent full time jobs at facility shall be created, and the owner and lessee shall make reasonable efforts to employ persons who are residents of Winkler County in such jobs, provided, however, that there shall be no obligation to employ residents who are not:
 - a. Equally or more qualified than nonresident applicants;
 - b. Available for employment on terms and/or salaries comparable to those required by nonresident applicants; or
 - c. Able to become qualified with 72 hours training provided by owner.
 2. Each person employed in such job shall perform a portion, if not all, of their work in Winkler County.
 3. Owner shall agree that it and its contractors, if any, will use reasonably commercial efforts to maximize its use of goods and services available through Winkler County businesses in the construction, operation and maintenance of the improvements and the project; provided, however, that there shall be no requirement to use goods and services provided by Winkler County residents that are not:

- a. Of similar quality to those provided by nonresidents; or
 - b. Made available on terms and conditions (including pricing) comparable to those offered by nonresidents. Comparable price shall be defined as less than or equal to 105% of the nonresident price for equivalent quality, conditions and terms.
4. Owner or its construction contractor, if any, shall designate a coordinator of local services who will act as liaison between any individuals who are interested in obtaining information about providing goods or services related to the construction of the project. Additionally, owner or its construction contractor, if any, shall advertise in local newspapers in Winkler County for local contractors to perform work on the construction project.
5. On May 1st of each year that the agreement shall be in effect, owner shall certify to the County Judge of Winkler County, and to the governing body of each taxing unit, that owner is in compliance with each applicable term set forth above.

Such agreement shall normally be executed within sixty (60) days after the applicant has forwarded all necessary information and documentation to the Commissioners' Court.

RECAPTURE – SECTION V

- A. In the event that the applicant or its assignee (1) allows its ad valorem taxes owed to Winkler County to become delinquent and fails to timely and properly follow the legal procedures for their protest and/or contest; or (2) violates any of the terms and conditions of the abatement agreement and fails to cure during the cure period, the agreement then may be terminated and all taxes previously abated by virtue of the agreement will be recaptured and paid within thirty (30) days of the termination.
- B. Should Winkler County determine that the applicant or its assignee is in default according to the terms and conditions of its agreement, Winkler County shall notify the company or individual in writing at the address stated in the agreement, and, if such is not cured within the time set forth in such notice ("cure period"), then the agreement may be terminated.

ADMINISTRATION – SECTION VI

- A. The Chief Appraiser of the Winkler County Appraisal District will annually determine an assessment of the real and personal property comprising the reinvestment zone. Each year, the company or individual receiving abatement shall furnish the appraiser with such information as may be necessary for the abatement. Once value has been established, the Chief Appraiser will notify the Commissioners' Court of Winkler County of the amount of the assessment.
- B. Winkler County may execute a contract with any other jurisdiction(s) to inspect the facility to determine if the terms and conditions of the abatement agreement are being met. The abatement agreement shall stipulate that employees and/or designated representatives of Winkler County will have access to the reinvestment zone during the term of the abatement to inspect the facility to determine if the terms and conditions of the agreement are being met. All inspections will be made only after the giving of twenty-four (24) hours prior notice and will only be conducted in such a manner as to not unreasonably interfere with the construction and/or operation of the facility. All inspections will be made with one or more representatives of the company or individual and in accordance with its safety standards.
- C. Upon completion of construction, the designated representative of Winkler County shall annually evaluate each facility receiving abatement to insure compliance with the agreement. A formal report shall be made to the Commissioners' Court.

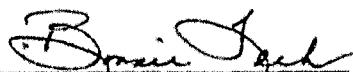
ASSIGNMENT - SECTION VII

The abatement agreement may be transferred and assigned by the holder to a new owner or lessee of the same facility upon the approval by resolution of the Commissioners' Court of Winkler County, subject to the financial capacity of the assignee and provided that all conditions and obligations in the abatement agreement are guaranteed by the execution of a new contractual agreement and/or assumption agreement with Winkler County. No assignment or transfer shall be approved if the parties to the existing agreement, the new owner or new lessee are liable to any jurisdiction for outstanding taxes or other obligations. Approval shall not be unreasonably delayed or withheld.

SUNSET PROVISION - SECTION VIII

These Guidelines and Criteria are effective upon the date of their adoption and will remain in force for two (2) years, unless amended by three-quarters vote of the Commissioners' Court of Winkler County, at which time all reinvestment zones and tax abatement agreements created pursuant to these provisions will be reviewed to determine whether the goals have been achieved. Based on the review, the Guidelines and Criteria will be modified, renewed or eliminated.

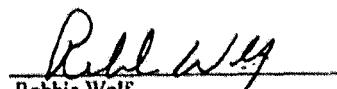
ADOPTED on the 25th day of March, 2013.



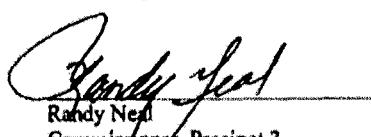
Bonnie Leck
Winkler County Judge



Billy J. Stevens
Commissioner, Precinct 1



Robbie Wolf
Commissioner, Precinct 2

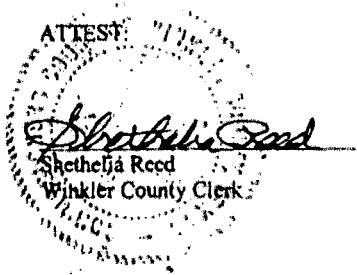


Randy Neal
Commissioner, Precinct 3



Billy Ray Thompson
Commissioner, Precinct 4

ATTEST:



Shethelia Reed
Winkler County Clerk

TAB 17

Signature and Certification page, signed and dated by Authorized School District Representative and Authorized Company Representative (applicant)

See Attached

SECTION 16: Authorized Signatures and Applicant Certification

After the application and schedules are complete, an authorized representative from the school district and the business should review the application documents and complete this authorization page. Attach the completed authorization page in Tab 17. NOTE: If you amend your application, you will need to obtain new signatures and resubmit this page, Section 16, with the amendment request.

1. Authorized School District Representative Signature

I am the authorized representative for the school district to which this application is being submitted. I understand that this application is a government record as defined in Chapter 37 of the Texas Penal Code.

print
here ➔Scotty CARMAN
Print Name (Authorized School District Representative)sign
here ➔
Signature (Authorized School District Representative)Super intendant
Title9-14-17
Date

2. Authorized Company Representative (Applicant) Signature and Notarization

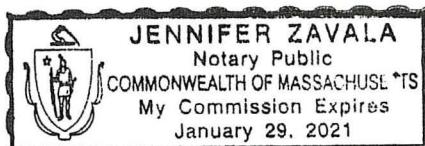
I am the authorized representative for the business entity for the purpose of filing this application. I understand that this application is a government record as defined in Chapter 37 of the Texas Penal Code. The information contained in this application and schedules is true and correct to the best of my knowledge and belief.

I hereby certify and affirm that the business entity I represent is in good standing under the laws of the state in which the business entity was organized and that no delinquent taxes are owed to the State of Texas.

print
here ➔

Michael U. Alvarez

Print Name (Authorized Company Representative (Applicant))

COO
Titlesign
here ➔
Signature (Authorized Company Representative (Applicant))T-6-17
Date

(Notary Seal)

GIVEN under my hand and seal of office this,

16th day of September 2017
Notary Public in and for the State of Texas
My Commission expires: January 29, 2021

If you make a false statement on this application, you could be found guilty of a Class A misdemeanor or a state jail felony under Texas Penal Code Section 37.10.

Attachment B

Franchise Tax Account Status



Franchise Tax Account Status

As of : 12/06/2017 09:13:55

This Page is Not Sufficient for Filings with the Secretary of State

PHOEBE ENERGY PROJECT, LLC

Texas Taxpayer Number 32064451308

Mailing Address 211 E 7TH ST STE 620 AUSTIN, TX 78701-3218

② Right to Transact Business in Texas ACTIVE

State of Formation DE

Effective SOS Registration Date 07/31/2017

Texas SOS File Number 0802780827

Registered Agent Name CORPORATION SERVICE COMPANY DBA CSC - LAWYERS INCO

Registered Office Street Address 211 E. 7TH STREET, SUITE 620 AUSTIN, TX 78701

Attachment C

State Comptroller's Certification

Note that any building or improvement existing as of the application review start date of September 14, 2017, or any tangible personal property placed in service prior to that date may not become "Qualified Property" as defined by 313.021(2) and the Texas Administrative Code.

Should you have any questions, please contact Will Counihan, Director, Data Analysis & Transparency, by email at will.counihan@cpa.texas.gov or by phone toll-free at 1-800-531-5441, ext. 6-0758, or at 512-936-0758.

Sincerely,

Mike Reissig
Deputy Comptroller

Enclosure

cc: Will Counihan

Attachment A – Economic Impact Analysis

The following tables summarize the Comptroller's economic impact analysis of Phoebe Energy Project, LLC (project) applying to Wink-Loving Independent School District (district), as required by Tax Code, 313.026 and Texas Administrative Code 9.1055(d)(2).

Table 1 is a summary of investment, employment and tax impact of Phoebe Energy Project, LLC.

Applicant	Phoebe Energy Project, LLC
Tax Code, 313.024 Eligibility Category	Renewable Energy Electric Generation
School District	Wink-Loving ISD
Estimated 2016-2017 Average Daily Attendance	390
County	Winkler
Proposed Total Investment in District	\$265,505,245
Proposed Qualified Investment	\$225,760,000
Limitation Amount	\$25,000,000
Qualifying Time Period (Full Years)	2019-2020
Number of new qualifying jobs committed to by applicant	*1
Number of new non-qualifying jobs estimated by applicant	0
Average weekly wage of qualifying jobs committed to by applicant	\$1,144
Minimum weekly wage required for each qualifying job by Tax Code, 313.021(5)(B)	\$1,144
Minimum annual wage committed to by applicant for qualified jobs	\$59,500
Minimum weekly wage required for non-qualifying jobs	\$1,162
Minimum annual wage required for non-qualifying jobs	\$60,399
Investment per Qualifying Job	\$265,505,245
Estimated M&O levy without any limit (15 years)	\$16,444,495
Estimated M&O levy with Limitation (15 years)	\$5,193,286
Estimated gross M&O tax benefit (15 years)	\$11,251,208

* Applicant is requesting district to waive requirement to create minimum number of qualifying jobs pursuant to Tax Code, 313.025 (f-1).

Table 2 is the estimated statewide economic impact of Phoebe Energy Project, LLC (modeled).

Year	Employment			Personal Income		
	Direct	Indirect + Induced	Total	Direct	Indirect + Induced	Total
2018	100	125	225	\$5,000,000	\$10,366,000	\$15,366,000
2019	350	443	792.519	\$17,500,000	\$38,865,000	\$56,365,000
2020	1	78	79	\$59,500	\$9,890,500	\$9,950,000
2021	1	35	36	\$59,500	\$6,351,500	\$6,411,000
2022	1	3	4	\$59,500	\$3,454,500	\$3,514,000
2023	1	(14)	-13	\$59,500	\$1,488,500	\$1,548,000
2024	1	(21)	-20	\$59,500	\$290,500	\$350,000
2025	1	(22)	-21	\$59,500	-\$260,500	-\$201,000
2026	1	(18)	-17	\$59,500	-\$388,500	-\$329,000
2027	1	(13)	-12	\$59,500	-\$246,500	-\$187,000
2028	1	(8)	-7	\$59,500	\$44,500	\$104,000
2029	1	(3)	-2	\$59,500	\$393,500	\$453,000
2030	1	1	2	\$59,500	\$679,500	\$739,000
2031	1	4	5	\$59,500	\$971,500	\$1,031,000
2032	1	6	7	\$59,500	\$1,221,500	\$1,281,000
2033	1	7	8	\$59,500	\$1,416,500	\$1,476,000
2034	1	8	9	\$59,500	\$1,546,500	\$1,606,000

Source: CPA REMI, Phoebe Energy Project, LLC

Table 3 examines the estimated direct impact on ad valorem taxes to the region if all taxes are assessed.

Table 3 Estimated Direct Ad Valorem Taxes without property tax incentives									
Year	Estimated Taxable Value for I&S	Estimated Taxable Value for M&O		Wink-Loving ISD I&S Tax Levy	Wink-Loving ISD M&O Tax Levy	Wink-Loving ISD M&O and I&S Tax Levies	Winkler County Tax Levy	Winkler County Hospital District Tax Levy	Estimated Total Property Taxes
			Tax Rate*	0.2800	1.0400		0.6500	0.2800	
2020	\$248,500,000	\$248,500,000		\$695,800	\$2,584,400	\$3,280,200	\$1,615,250	\$695,800	\$5,591,250
2021	\$211,275,000	\$211,275,000		\$591,570	\$2,197,260	\$2,788,830	\$1,373,288	\$591,570	\$4,753,688
2022	\$179,631,250	\$179,631,250		\$502,968	\$1,868,165	\$2,371,133	\$1,167,603	\$502,968	\$4,041,703
2023	\$152,731,688	\$152,731,688		\$427,649	\$1,588,410	\$2,016,058	\$992,756	\$427,649	\$3,436,463
2024	\$129,864,803	\$129,864,803		\$363,621	\$1,350,594	\$1,714,215	\$844,121	\$363,621	\$2,921,958
2025	\$110,425,808	\$110,425,808		\$309,192	\$1,148,428	\$1,457,621	\$717,768	\$309,192	\$2,484,581
2026	\$93,900,626	\$93,900,626		\$262,922	\$976,567	\$1,239,488	\$610,354	\$262,922	\$2,112,764
2027	\$79,852,287	\$79,852,287		\$223,586	\$830,464	\$1,054,050	\$519,040	\$223,586	\$1,796,676
2028	\$67,909,360	\$67,909,360		\$190,146	\$706,257	\$896,404	\$441,411	\$190,146	\$1,527,961
2029	\$57,756,127	\$57,756,127		\$161,717	\$600,664	\$762,381	\$375,415	\$161,717	\$1,299,513
2030	\$49,899,368	\$49,899,368		\$139,718	\$518,953	\$658,672	\$324,346	\$139,718	\$1,122,736
2031	\$49,884,400	\$49,884,400		\$139,676	\$518,798	\$658,474	\$324,249	\$139,676	\$1,122,399
2032	\$49,870,180	\$49,870,180		\$139,637	\$518,650	\$658,286	\$324,156	\$139,637	\$1,122,079
2033	\$49,856,671	\$49,856,671		\$139,599	\$518,509	\$658,108	\$324,068	\$139,599	\$1,121,775
2034	\$49,843,837	\$49,843,837		\$139,563	\$518,376	\$657,939	\$323,985	\$139,563	\$1,121,486
			Total	\$4,427,364	\$16,444,495	\$20,871,859	\$10,277,809	\$4,427,364	\$35,577,032

Source: CPA, Phoebe Energy Project, LLC

*Tax Rate per \$100 Valuation

Table 4 examines the estimated direct impact on ad valorem taxes to the school district, Winkler County Hospital District and Winkler County, with all property tax incentives sought using estimated market value from the application. The project has applied for a value limitation under Chapter 313, Tax Code and tax abatement with the county.

The difference noted in the last line is the difference between the totals in Table 3 and Table 4.

Table 4 Estimated Direct Ad Valorem Taxes with all property tax incentives sought									
Year	Estimated Taxable Value for I&S	Estimated Taxable Value for M&O		Wink-Loving ISD I&S Tax Levy	Wink-Loving ISD M&O Tax Levy	Wink-Loving ISD M&O and I&S Tax Levies	Winkler County Tax Levy	Winkler County Hospital District Tax Levy	Estimated Total Property Taxes
			Tax Rate*	0.2800	1.0400		0.6500	0.2800	
2020	\$248,500,000	\$25,000,000		\$695,800	\$260,000	\$955,800	\$403,813	\$695,800	\$2,055,413
2021	\$211,275,000	\$25,000,000		\$591,570	\$260,000	\$851,570	\$343,322	\$591,570	\$1,786,462
2022	\$179,631,250	\$25,000,000		\$502,968	\$260,000	\$762,968	\$291,901	\$502,968	\$1,557,836
2023	\$152,731,688	\$25,000,000		\$427,649	\$260,000	\$687,649	\$248,189	\$427,649	\$1,363,486
2024	\$129,864,803	\$25,000,000		\$363,621	\$260,000	\$623,621	\$211,030	\$363,621	\$1,198,273
2025	\$110,425,808	\$25,000,000		\$309,192	\$260,000	\$569,192	\$179,442	\$309,192	\$1,057,826
2026	\$93,900,626	\$25,000,000		\$262,922	\$260,000	\$522,922	\$152,589	\$262,922	\$938,432
2027	\$79,852,287	\$25,000,000		\$223,586	\$260,000	\$483,586	\$129,760	\$223,586	\$836,933
2028	\$67,909,360	\$25,000,000		\$190,146	\$260,000	\$450,146	\$110,353	\$190,146	\$750,645
2029	\$57,756,127	\$25,000,000		\$161,717	\$260,000	\$421,717	\$93,854	\$161,717	\$677,288
2030	\$49,899,368	\$49,899,368		\$139,718	\$518,953	\$658,672	\$324,346	\$139,718	\$1,122,736
2031	\$49,884,400	\$49,884,400		\$139,676	\$518,798	\$658,474	\$324,249	\$139,676	\$1,122,399
2032	\$49,870,180	\$49,870,180		\$139,637	\$518,650	\$658,286	\$324,156	\$139,637	\$1,122,079
2033	\$49,856,671	\$49,856,671		\$139,599	\$518,509	\$658,108	\$324,068	\$139,599	\$1,121,775
2034	\$49,843,837	\$49,843,837		\$139,563	\$518,376	\$657,939	\$323,985	\$139,563	\$1,121,486
			Total	\$4,427,364	\$5,193,286	\$9,620,650	\$3,785,055	\$4,427,364	\$17,833,069
			Diff	\$0	\$11,251,208	\$11,251,208	\$6,492,754	\$0	\$17,743,962

Source: CPA, Phoebe Energy Project, LLC

*Tax Rate per \$100 Valuation

Disclaimer: This examination is based on information from the application submitted to the school district and forwarded to the comptroller. It is intended to meet the statutory requirement of Chapter 313 of the Tax Code and is not intended for any other purpose.

Attachment B – Tax Revenue before 25th Anniversary of Limitation Start

This represents the Comptroller's determination that Phoebe Energy Project, LLC (project) is reasonably likely to generate, before the 25th anniversary of the beginning of the limitation period, tax revenue in an amount sufficient to offset the school district maintenance and operations ad valorem tax revenue lost as a result of the agreement. This evaluation is based on an analysis of the estimated M&O portion of the school district property tax levy directly related to this project, using estimated taxable values provided in the application.

	Tax Year	Estimated ISD M&O Tax Levy Generated (Annual)	Estimated ISD M&O Tax Levy Generated (Cumulative)	Estimated ISD M&O Tax Levy Loss as Result of Agreement (Annual)	Estimated ISD M&O Tax Levy Loss as Result of Agreement (Cumulative)
Limitation Pre-Years	2017	\$0	\$0	\$0	\$0
	2018	\$0	\$0	\$0	\$0
	2019	\$2,267,200	\$2,267,200	\$0	\$0
Limitation Period (10 Years)	2020	\$260,000	\$2,527,200	\$2,324,400	\$2,324,400
	2021	\$260,000	\$2,787,200	\$1,937,260	\$4,261,660
	2022	\$260,000	\$3,047,200	\$1,608,165	\$5,869,825
	2023	\$260,000	\$3,307,200	\$1,328,410	\$7,198,235
	2024	\$260,000	\$3,567,200	\$1,090,594	\$8,288,829
	2025	\$260,000	\$3,827,200	\$888,428	\$9,177,257
	2026	\$260,000	\$4,087,200	\$716,567	\$9,893,823
	2027	\$260,000	\$4,347,200	\$570,464	\$10,464,287
	2028	\$260,000	\$4,607,200	\$446,257	\$10,910,545
	2029	\$260,000	\$4,867,200	\$340,664	\$11,251,208
Maintain Viable Presence (5 Years)	2030	\$518,953	\$5,386,153	\$0	\$11,251,208
	2031	\$518,798	\$5,904,951	\$0	\$11,251,208
	2032	\$518,650	\$6,423,601	\$0	\$11,251,208
	2033	\$518,509	\$6,942,110	\$0	\$11,251,208
	2034	\$518,376	\$7,460,486	\$0	\$11,251,208
Additional Years as Required by 313.026(c)(1) (10 Years)	2035	\$518,249	\$7,978,735	\$0	\$11,251,208
	2036	\$518,129	\$8,496,864	\$0	\$11,251,208
	2037	\$518,014	\$9,014,878	\$0	\$11,251,208
	2038	\$517,906	\$9,532,784	\$0	\$11,251,208
	2039	\$517,802	\$10,050,586	\$0	\$11,251,208
	2040	\$517,704	\$10,568,290	\$0	\$11,251,208
	2041	\$517,611	\$11,085,901	\$0	\$11,251,208
	2042	\$517,522	\$11,603,424	\$0	\$11,251,208
	2043	\$517,438	\$12,120,862	\$0	\$11,251,208
	2044	\$517,358	\$12,638,220	\$0	\$11,251,208

\$12,638,220

is greater than

\$11,251,208

Analysis Summary

Is the project reasonably likely to generate tax revenue in an amount sufficient to offset the M&O levy loss as a result of the limitation agreement?

Yes

NOTE: The analysis above only takes into account this project's estimated impact on the M&O portion of the school district property tax levy directly related to this project.

Source: CPA, Phoebe Energy Project, LLC

Disclaimer: This examination is based on information from the application submitted to the school district and forwarded to the comptroller. It is intended to meet the statutory requirement of Chapter 313 of the Tax Code and is not intended for any other purpose.

Attachment C – Limitation as a Determining Factor

Tax Code 313.026 states that the Comptroller may not issue a certificate for a limitation on appraised value under this chapter for property described in an application unless the comptroller determines that “the limitation on appraised value is a determining factor in the applicant’s decision to invest capital and construct the project in this state.” This represents the basis for the Comptroller’s determination.

Methodology

Texas Administrative Code 9.1055(d) states the Comptroller shall review any information available to the Comptroller including:

- the application, including the responses to the questions in Section 8 (Limitation as a Determining Factor);
- public documents or statements by the applicant concerning business operations or site location issues or in which the applicant is a subject;
- statements by officials of the applicant, public documents or statements by governmental or industry officials concerning business operations or site location issues;
- existing investment and operations at or near the site or in the state that may impact the proposed project;
- announced real estate transactions, utility records, permit requests, industry publications or other sources that may provide information helpful in making the determination; and
- market information, raw materials or other production inputs, availability, existing facility locations, committed incentives, infrastructure issues, utility issues, location of buyers, nature of market, supply chains, other known sites under consideration.

Determination

The Comptroller has determined that the limitation on appraised value is a determining factor in the Phoebe Energy Project, LLC’s decision to invest capital and construct the project in this state. This is based on information available, including information provided by the applicant. Specifically, the comptroller notes the following:

- Per Phoebe Energy Project, LLC in Tab 5 of their Application for a Limitation on Appraised Value:
 - A. “The applicant requires this appraised value limitation in order to move forward with constructing this project in Texas. Specifically, without the available tax incentives, the economics of the project become unappealing to investors and the likelihood of constructing the project in Texas becomes unlikely. Other places where Applicant is considering investing and developing projects include states that offer market incentives for generation resources like property tax incentives, including Tennessee, North Carolina, Mississippi, Nevada, Georgia, Alabama (Thebe Project), Utah (Pasithee Project), New Mexico, California, Arizona, and Virginia (Cordelia Project, etc.)”
 - B. “The property tax liabilities of a project without tax incentives in Texas lowers the return to investors and financiers to an unacceptable level at today’s contracted power rates under a power purchase agreement. As such, the applicant is not able to finance and build its project in Texas even with a signed power purchase agreement because of the low price in the power purchase agreement. Without the tax incentive, the applicant would be forced to abandon the project and spend its development capital and prospective investment funds in other states where the rate of return is higher on a project basis.”

- C. "This is true even if the entity is able to contract with an off-taker under a power purchase agreement because the low rate contracted for is not financeable without the tax incentives. More specifically, a signed power purchase agreement in the Texas market is at a much lower rate than other states because of competitively low electricity prices. Other states have high electricity prices where a developer can obtain a PPA with a much higher contracted rate, combined with state subsidies, the other states offer a much higher rate of return for the project financiers. Without the tax incentives in Texas, a project with a power purchase agreement becomes non-financeable and the developer would have to abandon the project and go to different market."
- Longroad Development, LLC, Phoebe Energy, LLC's parent company included the project in a company investor presentation material – Longroad Energy Infratil Investor Day, March 29, 2017.
 - According to a May 4, 2017 CBS7 news story, "County commissioners in Winkler County heard a request from 7X Energy to build a solar field. ... The project would bring about 200 jobs during the construction phase and up to 7 permanent jobs." In January 2017, Longroad acquired 3GW pipeline of solar projects from 7X Energy Inc. Longroad will work with 7X Energy Inc. to build out the 3GW solar pipeline and other project.
 - Supplemental information provided by the applicant indicated the following:
 - A. The Phoebe Energy Project ("Phoebe") is not known by any other project names.
 - B. The GINR number for the Phoebe project is 19INR0029.

Supporting Information

- a) Section 8 of the Application for a Limitation on Appraised Value
- b) Attachments provided in Tab 5 of the Application for a Limitation on Appraised Value
- c) Additional information provided by the Applicant or located by the Comptroller

Disclaimer: This examination is based on information from the application submitted to the school district and forwarded to the comptroller. It is intended to meet the statutory requirement of Chapter 313 of the Tax Code and is not intended for any other purpose.

Supporting Information

Section 8 of the Application for
a Limitation on Appraised
Value

SECTION 6: Eligibility Under Tax Code Chapter 313.024

1. Are you an entity subject to the tax under Tax Code, Chapter 171? Yes No
2. The property will be used for one of the following activities:
- (1) manufacturing Yes No
 - (2) research and development Yes No
 - (3) a clean coal project, as defined by Section 5.001, Water Code Yes No
 - (4) an advanced clean energy project, as defined by Section 382.003, Health and Safety Code Yes No
 - (5) renewable energy electric generation Yes No
 - (6) electric power generation using integrated gasification combined cycle technology Yes No
 - (7) nuclear electric power generation Yes No
 - (8) a computer center that is used as an integral part or as a necessary auxiliary part for the activity conducted by applicant in one or more activities described by Subdivisions (1) through (7) Yes No
 - (9) a Texas Priority Project, as defined by 313.024(e)(7) and TAC 9.1051 Yes No
3. Are you requesting that any of the land be classified as qualified investment? Yes No
4. Will any of the proposed qualified investment be leased under a capitalized lease? Yes No
5. Will any of the proposed qualified investment be leased under an operating lease? Yes No
6. Are you including property that is owned by a person other than the applicant? Yes No
7. Will any property be pooled or proposed to be pooled with property owned by the applicant in determining the amount of your qualified investment? Yes No

SECTION 7: Project Description

1. In Tab 4, attach a detailed description of the scope of the proposed project, including, at a minimum, the type and planned use of real and tangible personal property, the nature of the business, a timeline for property construction or installation, and any other relevant information.
2. Check the project characteristics that apply to the proposed project:
- | | |
|---|--|
| <input checked="" type="checkbox"/> Land has no existing improvements | <input type="checkbox"/> Land has existing improvements (<i>complete Section 13</i>) |
| <input type="checkbox"/> Expansion of existing operation on the land (<i>complete Section 13</i>) | <input type="checkbox"/> Relocation within Texas |

SECTION 8: Limitation as Determining Factor

1. Does the applicant currently own the land on which the proposed project will occur? Yes No
2. Has the applicant entered into any agreements, contracts or letters of intent related to the proposed project? Yes No
3. Does the applicant have current business activities at the location where the proposed project will occur? Yes No
4. Has the applicant made public statements in SEC filings or other documents regarding its intentions regarding the proposed project location? Yes No
5. Has the applicant received any local or state permits for activities on the proposed project site? Yes No
6. Has the applicant received commitments for state or local incentives for activities at the proposed project site? Yes No
7. Is the applicant evaluating other locations not in Texas for the proposed project? Yes No
8. Has the applicant provided capital investment or return on investment information for the proposed project in comparison with other alternative investment opportunities? Yes No
9. Has the applicant provided information related to the applicant's inputs, transportation and markets for the proposed project? Yes No
10. Are you submitting information to assist in the determination as to whether the limitation on appraised value is a determining factor in the applicant's decision to invest capital and construct the project in Texas? Yes No

Chapter 313.026(e) states "the applicant may submit information to the Comptroller that would provide a basis for an affirmative determination under Subsection (c)(2)." If you answered "yes" to any of the questions in Section 8, attach supporting information in Tab 5.

Supporting Information

Attachments provided in Tab
5
of the Application for a
Limitation on Appraised
Value

TAB 5

Documentation to Assist in Determining if Limitation is a Determining Factor

The applicant's parent company, Longroad Development, LLC, is a national solar developer with the ability to locate projects of this type in other counties and states in the US with strong solar characteristics. The applicant is actively developing other projects throughout the US. The applicant requires this appraised value limitation in order to move forward with constructing this project in Texas. Specifically, without the available tax incentives, the economics of the project become unappealing to investors and the likelihood of constructing the project in Texas becomes unlikely. Other places where Applicant is considering investing and developing projects include states that offer market incentives for generation resources like property tax incentives, including Tennessee, North Carolina, Mississippi, Nevada, Georgia, Alabama (Thebe Project), Utah (Pasithee Project), New Mexico, California, Arizona, and Virginia (Cordelia Project, etc.).

Property taxes can be the highest operating expense for a solar generation facility as solar plants do not have any associated fuel costs for the production of electricity, and with Texas wholesale electricity prices already below the national average in Texas, it is necessary to limit the property tax liabilities for a solar project in order to be able to offer electricity at prices that are marketable to Texas customers at competitive rates, including power sales under a bi-lateral contract. Markets such as California that have state wide available subsidies for renewable energy projects, and which have higher average contracted power rates, offer an attractive incentive for developers to build projects in those markets over Texas.

The property tax liabilities of a project without tax incentives in Texas lowers the return to investors and financiers to an unacceptable level at today's contracted power rates under a power purchase agreement. As such, the applicant is not able to finance and build its project in Texas even with a signed power purchase agreement because of the low price in the power purchase agreement. Without the tax incentive, the applicant would be forced to abandon the project and spend its development capital and prospective investment funds in other states where the rate of return is higher on a project basis.

This is true even if the entity is able to contract with an off-taker under a power purchase agreement because the low rate contracted for is not financeable without the tax incentives. More specifically, a signed power purchase agreement in the Texas market is at a much lower rate than other states because of competitively low electricity prices. Other states have high electricity prices where a developer can obtain a PPA with a much higher contracted rate, combined with state subsidies, the other states offer a much higher rate of return for the project financiers. Without the tax incentives in Texas, a project with a power purchase agreement becomes non-financeable and the developer would have to abandon the project and go to different market.

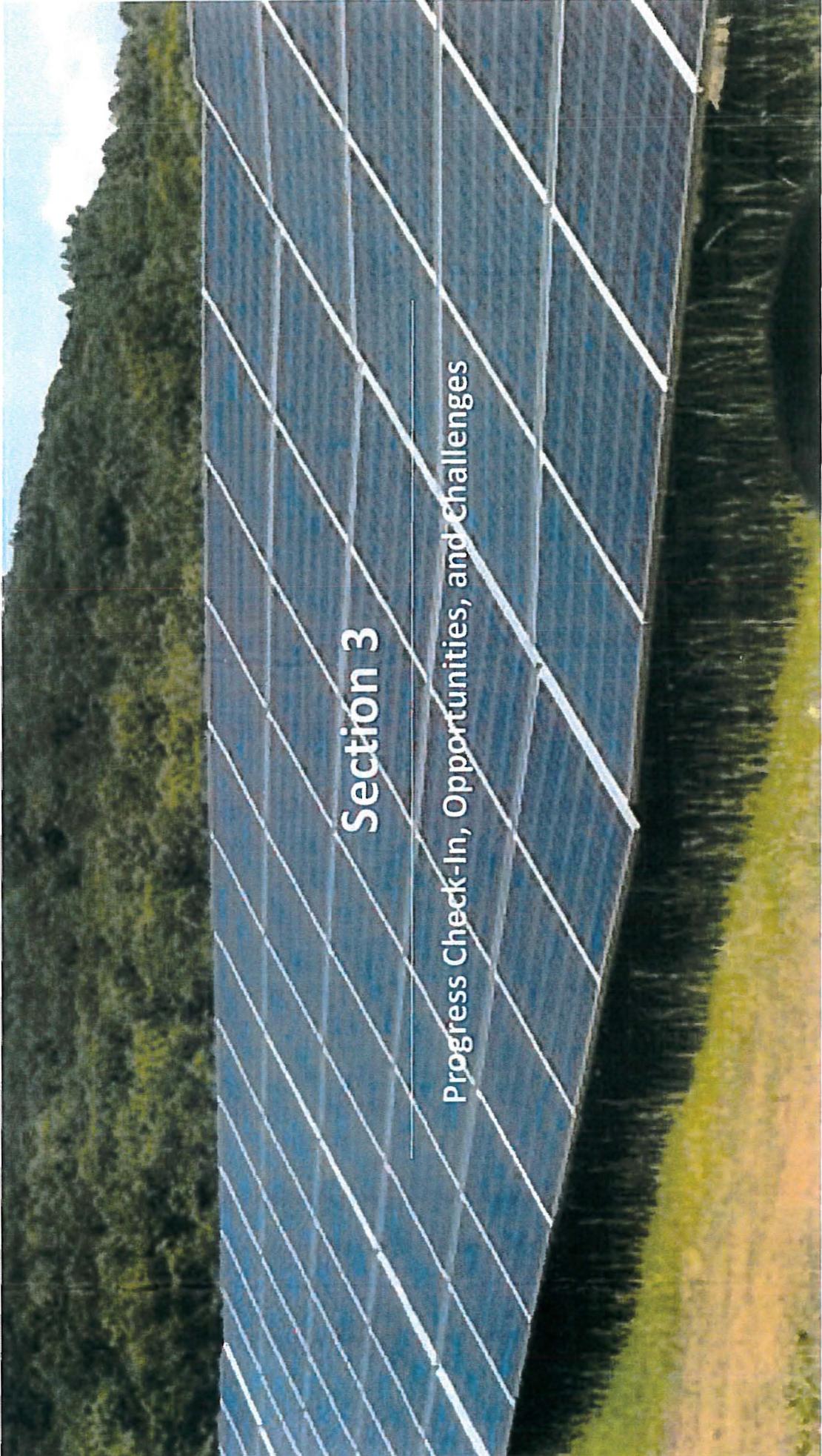
Supporting Information

Additional information
provided by the Applicant or
located by the Comptroller



Infratil Investor Day

March 29, 2017

A photograph of a large-scale solar energy installation. The foreground features a massive array of dark blue solar panels, which are tilted at an angle. To the left of the panels, there's a dense forest of green trees. In the bottom right corner, a small, colorful patch of flowers adds a splash of yellow and orange to the otherwise industrial-looking scene.

Section 3

Progress Check-In, Opportunities, and Challenges

Portfolio Map (excludes M&A)

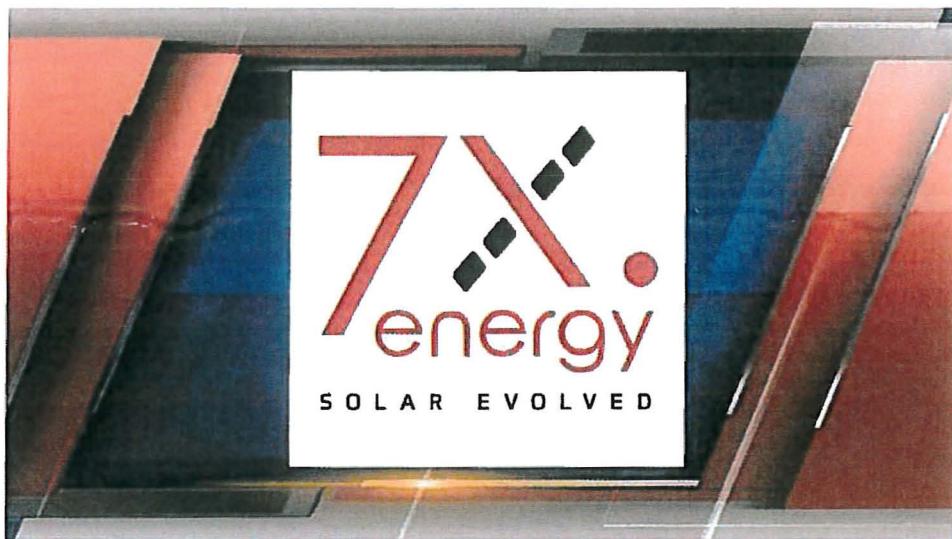




The CBS 7 logo is prominently displayed in the top left corner. To the right, there's a weather graphic showing a sun icon, the temperature (78°F Clear), and a high of 87° with a low of 60° for Midland, TX. Below the logo, the station's tagline "THE BREAKING NEWS & WEATHER AUTHORITY" is visible. A navigation bar at the bottom includes links for Weather, Sports, Studio 7, Español, and Livestream, along with a menu icon.

[Home](#) / [Local](#) / [Article](#)

7X Energy looking to build solar field in Winkler County



Posted: Thu 9:35 AM, May 04, 2017 | Updated: Thu 1:50 PM, May 04, 2017



County commissioners in Winkler County have heard a request from 7X Energy to build a solar field.

If approved the field would have a fence around the facility to prevent noise and it would stop it from being an eye sore to the community according to the Chief Development Officer for the company.

The project would bring about 200 jobs during the construction phase and up to 7 permanent jobs.

Dancing With the Stars heading to the Permian Basin

Odessa City Council to meet on City Attorney Sexual Harassment allegations

DPS responds to crash at Highway 158 and 1788

Whataburger introduces their very own James Avery Charm

Midlanders gather for Life Chain to pray for the end of abortion

COMPTROLLER QUERY RELATED TO TAX CODE CHAPTER 313.026(c)(2)
– Wink-Loving ISD – Phoebe Energy Project, LLC App. #1217 –

Comptroller Questions (via email on October 24, 2017):

- 1) *Is the Phoebe Energy Project, LLC, project currently known by any other project names?*
- 2) *Has this project applied to ERCOT at this time? If so, please provide the project's GINR number.*

Applicant Response (via email on October 24, 2017):

- 1) *The Phoebe Energy Project ("Phoebe") is not known by any other project names.*
- 2) *The GINR number for the Phoebe project is 19INR0029.*

Attachment D

Summary of Financial Impact

**CHAPTER 313 PROPERTY VALUE LIMITATION
FINANCIAL IMPACT OF THE PROPOSED PHOEBE ENERGY
PROJECT, LLC PROJECT IN THE WINK-LOVING
INDEPENDENT SCHOOL DISTRICT
(PROJECT # 1217)**

PREPARED BY



DECEMBER 5, 2017

Executive Summary

Phoebe Energy Project, LLC (Company) has requested that the Wink-Loving Independent School District (W-LISD) consider granting a property value limitation under Chapter 313 of the Tax Code, also known as the Texas Economic Development Act. In an application submitted to W-LISD on September 14, 2017 the Company plans to invest \$248.5 million to construct a solar renewable electric energy generation facility. Moak, Casey & Associates (MCA) has been retained to prepare an analysis of this value limitation and help the district navigate the overall application and agreement process.

The Phoebe Energy project is consistent with the state's goal to "encourage large scale capital investments in this state." When enacted as House Bill 1200 in 2001, Chapter 313 of the Tax Code granted eligibility to companies engaged in manufacturing, research and development, and renewable electric energy production to apply to school districts for property value limitations. Subsequent legislative changes expanded eligibility to clean coal projects, nuclear power generation and data centers, among others.

Under the provisions of Chapter 313, W-LISD may offer a minimum value limitation of \$25 million. This value limitation, under the proposed application, will begin in the 2020-21 school year and remain at that level of taxable value for Maintenance and Operations (M&O) tax purposes for ten years. The entire project value will remain taxable for I&S or debt service purposes for the term of the agreement.

MCA's initial school finance analysis is detailed in this report, incorporating the major legislative changes adopted earlier this year. The overall conclusions are as follows, but please read all of the subsequent details in the report below for more information.

Total Revenue Loss Payment owed to W-LISD	\$0.795 million
---	-----------------

Total Savings to Company after Revenue Loss Payment. (This does not include any supplemental benefit payments to the district.)	\$10.46 million
--	-----------------

Application Process

After the school district has submitted an application to the Comptroller's Office (Comptroller), the Comptroller begins reviewing the application for completeness. The purpose of this review is to ensure all necessary information and attachments are included in the application before moving forward with the formal review process. The Comptroller's Office issued a Completeness Letter for this project on October 26, 2017.

The issuance of a Completeness Letter is important because it sets the timeline for the rest of the process. From the date of issuance, the Comptroller has 90 days to conduct its full review of the project and provide its certificate for a limitation on appraised value. The Comptroller's Certificate for this letter was issued on November 13, 2017.

After the Comptroller's certificate is received, O'Hanlon, Demerath & Castillo contacted the school district to discuss the value limitation agreement and begin negotiations of the supplemental benefit payment with the Company. A final version of the agreement must be submitted to the Comptroller for review prior to final adoption by the school district's board of trustees.

Prior to final board meeting, O'Hanlon, Demerath & Castillo will provide the district with the necessary agenda language and any additional action items. The school board will review the Value Limitation Agreement and Findings of Fact that detail the project's conformance with state law. The school board must also consider the adoption of a job waiver as part of its consideration of the Application during this meeting.

How the 313 Agreement Interacts with Texas School Finance

M&O funding for Texas schools relies on two methods of finance: local school district property taxes and state aid. State aid consists of two components: Tier I (based on ADA, special student populations and M&O taxes at the compressed tax rate) and Tier II (based on weighted ADA for each penny of tax effort above a specified level). (For more detailed information on the school finance funding system, please review the Texas Education Agency's [School Finance 101: Funding of Texas Public Schools](#).)

Because the general school finance formula system calculates state aid entitlements using the Comptroller's certified property value for the preceding year, the first year is often problematic financially. The implementation of the value limitation often results in an M&O revenue loss to the school district in the first year of the limitation that would not be reimbursed by the state, but require some type of compensation from the Company under the revenue protection provisions of the agreement. **If the full value of the project increases significantly during the value limitation period, the revenue losses may be greater than originally estimated.**

A taxpayer receiving a value limitation pays M&O taxes on the reduced value for the project in years 1-10 and receives a tax bill for I&S taxes based on the full project value throughout the qualifying and value limitation period (and thereafter).

Future legislative action on school funding could potentially affect the impact of the value limitation on the school district's finances and result in revenue-loss estimates that differ from the estimates presented in this report.

Underlying School District Data Assumptions

The agreement between the school district and the applicant calls for a calculation of the revenue impact of the value limitation in years 1-10 of the agreement, under whatever school finance and property tax laws are in effect in each of those years. The Basic Allotment remained at \$5,140 and the Tier II Austin yield increased to \$99.41 for 2017-18 and \$106.28 for 2018-19, which is maintained for future years.

Static school district enrollment and property values are used to isolate the effects of the value limitation under the school finance system. Any previously-approved Chapter 313 projects are also factored into the M&O tax bases used. The impact of the Chapter 313 project value returning to the total tax roll for M&O funding purposes is beyond the scope of this revenue report.

ADA:	427
Local Tax Base:	\$1.78 billion
M&O Tax Rate:	\$1.04 per \$100
I&S Tax Rate:	\$0.28 per \$100
Wealth per WADA:	\$2,120,618

Table 1 summarizes the enrollment and property value assumptions for the 15 years that are the subject of this analysis.

Table 1 – Base District Information with Phoebe Energy Project Value and Limitation Values

Year of Agreement	School Year	ADA	WADA	M&O Tax Rate	I&S Tax Rate	CAD Value with Project	CAD Value with Limitation	CPTD with Project	CPTD With Limitation	CPTD Value with Project per WADA	CPTD Value with Limitation per WADA
QTP1	2018-19	426.83	777.55	\$1.0400	\$0.2800	\$1,780,683,203	\$1,780,683,203	\$1,782,138,721	\$1,782,138,721	\$2,291,995	\$2,291,995
QTP2	2019-20	426.83	777.55	\$1.0400	\$0.2800	\$1,810,683,203	\$1,810,683,203	\$1,782,138,721	\$1,782,138,721	\$2,291,995	\$2,291,995
VL1	2020-21	426.83	777.55	\$1.0400	\$0.2800	\$2,029,183,203	\$1,805,683,203	\$1,812,138,721	\$1,812,138,721	\$2,330,578	\$2,330,578
VL2	2021-22	426.83	777.55	\$1.0400	\$0.2800	\$1,991,958,203	\$1,805,683,203	\$2,030,638,721	\$1,807,138,721	\$2,611,589	\$2,324,148
VL3	2022-23	426.83	777.55	\$1.0400	\$0.2800	\$1,960,314,453	\$1,805,683,203	\$1,993,413,721	\$1,807,138,721	\$2,563,715	\$2,324,148
VL4	2023-24	426.83	777.55	\$1.0400	\$0.2800	\$1,933,414,891	\$1,805,683,203	\$1,961,769,971	\$1,807,138,721	\$2,523,018	\$2,324,148
VL5	2024-25	426.83	777.55	\$1.0400	\$0.2800	\$1,910,548,006	\$1,805,683,203	\$1,934,870,409	\$1,807,138,721	\$2,488,422	\$2,324,148
VL6	2025-26	426.83	777.55	\$1.0400	\$0.2800	\$1,891,109,011	\$1,805,683,203	\$1,912,003,524	\$1,807,138,721	\$2,459,014	\$2,324,148
VL7	2026-27	426.83	777.55	\$1.0400	\$0.2800	\$1,874,583,829	\$1,805,683,203	\$1,892,564,529	\$1,807,138,721	\$2,434,013	\$2,324,148
VL8	2027-28	426.83	777.55	\$1.0400	\$0.2800	\$1,860,535,490	\$1,805,683,203	\$1,876,039,347	\$1,807,138,721	\$2,412,760	\$2,324,148
VL9	2028-29	426.83	777.55	\$1.0400	\$0.2800	\$1,848,592,563	\$1,805,683,203	\$1,861,991,008	\$1,807,138,721	\$2,394,693	\$2,324,148
VL10	2029-30	426.83	777.55	\$1.0400	\$0.2800	\$1,838,439,330	\$1,805,683,203	\$1,850,048,081	\$1,807,138,721	\$2,379,333	\$2,324,148
VP1	2030-31	426.83	777.55	\$1.0400	\$0.2800	\$1,830,582,571	\$1,830,582,571	\$1,839,894,848	\$1,807,138,721	\$2,366,275	\$2,324,148
VP2	2031-32	426.83	777.55	\$1.0400	\$0.2800	\$1,830,567,603	\$1,830,567,603	\$1,832,038,089	\$1,832,038,089	\$2,356,171	\$2,356,171
VP3	2032-33	426.83	777.55	\$1.0400	\$0.2800	\$1,830,553,383	\$1,830,553,383	\$1,832,023,121	\$1,832,023,121	\$2,356,151	\$2,356,151
VP4	2033-34	426.83	777.55	\$1.0400	\$0.2800	\$1,830,539,874	\$1,830,539,874	\$1,832,008,901	\$1,832,008,901	\$2,356,133	\$2,356,133
VP5	2034-35	426.83	777.55	\$1.0400	\$0.2800	\$1,830,527,040	\$1,830,527,040	\$1,831,995,392	\$1,831,995,392	\$2,356,116	\$2,356,116

*Basic Allotment: \$5,140; AISD Yield: \$106.28; Equalized Wealth: \$514,000 per WADA

QTP= Qualifying Time Period
VL= Value Limitation
VP= Viable Presence

M&O Impact of the Phoebe Energy project on W-LISD

A model is established to make a calculation of the "Baseline Revenue Model" (Table 2) by adding the total value of the project to the model, without assuming a value limitation is approved. A separate model is established to make a calculation of the "Value Limitation Revenue Model" (Table 3) by adding the project's limited value of \$25 million to the model. The difference between the two models (Table 4) indicates there will be a total revenue loss of \$794,726 over the course of the Agreement, with all the loss reflected in the first limitation year (2020-21). Nearly all reduction in M&O taxes under the limitation agreement is offset through a reduction in recapture costs owed to the state under current law.

Table 2- "Baseline Revenue Model" --Project Value Added with No Value Limitation

Year of Agreement	School Year	M&O Taxes @ Compressed Rate	State Aid	Additional State Aid-Hold Harmless	Recapture Costs	Additional Local M&O Collections	State Aid from Additional M&O Tax Collections	Recapture from the Additional Local Tax Effort	Homestead Hold Harmless	Other State Aid	Total General Fund
QTP1	2018-19	\$17,524,072	\$183,420	\$0	-\$11,822,891	\$700,963	\$0	\$0	\$0	\$14,209	\$6,599,773
QTP2	2019-20	\$17,818,072	\$106,591	\$0	-\$11,933,252	\$712,723	\$0	\$0	\$0	\$14,209	\$6,718,343
VL1	2020-21	\$20,004,072	\$183,420	\$0	-\$13,613,389	\$800,163	\$0	\$0	\$0	\$14,209	\$7,388,475
VL2	2021-22	\$19,631,822	\$106,591	\$0	-\$13,939,203	\$785,273	\$0	\$0	\$0	\$14,209	\$6,598,692
VL3	2022-23	\$19,315,385	\$183,420	\$0	-\$13,696,598	\$772,615	\$0	\$0	\$0	\$14,209	\$6,589,031
VL4	2023-24	\$19,046,389	\$106,591	\$0	-\$13,329,889	\$761,856	\$0	\$0	\$0	\$14,209	\$6,599,156
VL5	2024-25	\$18,817,720	\$183,420	\$0	-\$13,178,289	\$752,709	\$0	\$0	\$0	\$14,209	\$6,589,769
VL6	2025-26	\$18,623,330	\$106,591	\$0	-\$12,888,505	\$744,933	\$0	\$0	\$0	\$14,209	\$6,600,558
VL7	2026-27	\$18,458,079	\$183,420	\$0	-\$12,802,937	\$738,323	\$0	\$0	\$0	\$14,209	\$6,591,094
VL8	2027-28	\$18,317,595	\$106,591	\$0	-\$12,568,923	\$732,704	\$0	\$0	\$0	\$14,209	\$6,602,176
VL9	2028-29	\$18,198,166	\$183,420	\$0	-\$12,531,228	\$727,927	\$0	\$0	\$0	\$14,209	\$6,592,494
VL10	2029-30	\$18,096,634	\$106,591	\$0	-\$12,337,622	\$723,865	\$0	\$0	\$0	\$14,209	\$6,603,676
VP1	2030-31	\$18,013,086	\$183,420	\$0	-\$12,336,520	\$720,523	\$0	\$0	\$0	\$14,209	\$6,594,718
VP2	2031-32	\$18,012,939	\$106,591	\$0	-\$12,224,584	\$720,518	\$0	\$0	\$0	\$14,209	\$6,629,673
VP3	2032-33	\$18,012,800	\$183,420	\$0	-\$12,312,255	\$720,512	\$0	\$0	\$0	\$14,209	\$6,618,686
VP4	2033-34	\$18,012,668	\$106,591	\$0	-\$12,224,308	\$720,507	\$0	\$0	\$0	\$14,209	\$6,629,667
VP5	2034-35	\$18,012,542	\$183,420	\$0	-\$12,311,992	\$720,502	\$0	\$0	\$0	\$14,209	\$6,618,681

QTP= Qualifying Time Period
 VL= Value Limitation
 VP= Viable Presence

Table 3- "Value Limitation Revenue Model" --Project Value Added with Value Limit

Year of Agreement	School Year	M&O Taxes @ Compressed Rate	State Aid	Additional State Aid-Hold Harmless	Recapture Costs	Additional Local M&O Collections	State Aid from Additional M&O Tax Collections	Recapture from the Additional Local Tax Effort	Homestead Hold Harmless	Other State Aid	Total General Fund
QTP1	2018-19	\$17,524,072	\$183,420	\$0	-\$11,822,891	\$700,963	\$0	\$0	\$0	\$14,209	\$6,599,773
QTP2	2019-20	\$17,818,072	\$106,591	\$0	-\$11,933,252	\$712,723	\$0	\$0	\$0	\$14,209	\$6,718,343
VL1	2020-21	\$17,769,072	\$183,420	\$0	-\$12,083,715	\$710,763	\$0	\$0	\$0	\$14,209	\$6,593,749
VL2	2021-22	\$17,769,072	\$106,591	\$0	-\$11,980,375	\$710,763	\$0	\$0	\$0	\$14,209	\$6,620,260
VL3	2022-23	\$17,769,072	\$183,420	\$0	-\$12,068,192	\$710,763	\$0	\$0	\$0	\$14,209	\$6,609,272
VL4	2023-24	\$17,769,072	\$106,591	\$0	-\$11,980,375	\$710,763	\$0	\$0	\$0	\$14,209	\$6,620,260
VL5	2024-25	\$17,769,072	\$183,420	\$0	-\$12,068,192	\$710,763	\$0	\$0	\$0	\$14,209	\$6,609,272
VL6	2025-26	\$17,769,072	\$106,591	\$0	-\$11,980,375	\$710,763	\$0	\$0	\$0	\$14,209	\$6,620,260
VL7	2026-27	\$17,769,072	\$183,420	\$0	-\$12,068,192	\$710,763	\$0	\$0	\$0	\$14,209	\$6,609,272
VL8	2027-28	\$17,769,072	\$106,591	\$0	-\$11,980,375	\$710,763	\$0	\$0	\$0	\$14,209	\$6,620,260
VL9	2028-29	\$17,769,072	\$183,420	\$0	-\$12,068,192	\$710,763	\$0	\$0	\$0	\$14,209	\$6,609,272
VL10	2029-30	\$17,769,072	\$106,591	\$0	-\$11,980,375	\$710,763	\$0	\$0	\$0	\$14,209	\$6,620,260
VP1	2030-31	\$18,013,086	\$183,420	\$0	-\$12,234,986	\$720,523	\$0	\$0	\$0	\$14,209	\$6,696,251
VP2	2031-32	\$18,012,939	\$106,591	\$0	-\$12,224,584	\$720,518	\$0	\$0	\$0	\$14,209	\$6,629,673
VP3	2032-33	\$18,012,800	\$183,420	\$0	-\$12,312,255	\$720,512	\$0	\$0	\$0	\$14,209	\$6,618,686
VP4	2033-34	\$18,012,668	\$106,591	\$0	-\$12,224,308	\$720,507	\$0	\$0	\$0	\$14,209	\$6,629,667
VP5	2034-35	\$18,012,542	\$183,420	\$0	-\$12,311,992	\$720,502	\$0	\$0	\$0	\$14,209	\$6,618,681

QTP= Qualifying Time Period
 VL= Value Limitation
 VP= Viable Presence

Table 4 – Value Limit less Project Value with No Limit

Year of Agreement	School Year	M&O Taxes @ Compressed Rate	State Aid	Additional State Aid-Hold Harmless	Recapture Costs	Additional Local M&O Collections	State Aid from Additional M&O Tax Collections	Recapture from the Additional Local Tax Effort	Homestead Hold Harmless	Other State Aid	Total General Fund
QTP1	2018-19	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
QTP2	2019-20	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
VL1	2020-21	-\$2,235,000	\$0	\$0	\$1,529,674	-\$89,400	\$0	\$0	\$0	\$0	-\$794,726
VL2	2021-22	-\$1,862,750	\$0	\$0	\$1,958,828	-\$74,510	\$0	\$0	\$0	\$0	\$21,568
VL3	2022-23	-\$1,546,313	\$0	\$0	\$1,628,405	-\$61,852	\$0	\$0	\$0	\$0	\$20,240
VL4	2023-24	-\$1,277,317	\$0	\$0	\$1,349,514	-\$51,093	\$0	\$0	\$0	\$0	\$21,104
VL5	2024-25	-\$1,048,648	\$0	\$0	\$1,110,097	-\$41,946	\$0	\$0	\$0	\$0	\$19,503
VL6	2025-26	-\$854,258	\$0	\$0	\$908,130	-\$34,170	\$0	\$0	\$0	\$0	\$19,702
VL7	2026-27	-\$689,007	\$0	\$0	\$734,745	-\$27,560	\$0	\$0	\$0	\$0	\$18,178
VL8	2027-28	-\$548,523	\$0	\$0	\$588,548	-\$21,941	\$0	\$0	\$0	\$0	\$18,084
VL9	2028-29	-\$429,094	\$0	\$0	\$463,036	-\$17,164	\$0	\$0	\$0	\$0	\$16,778
VL10	2029-30	-\$327,562	\$0	\$0	\$357,248	-\$13,102	\$0	\$0	\$0	\$0	\$16,584
VP1	2030-31	\$0	\$0	\$0	\$101,533	\$0	\$0	\$0	\$0	\$0	\$101,533
VP2	2031-32	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
VP3	2032-33	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
VP4	2033-34	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
VP5	2034-35	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

QTP= Qualifying Time Period
 VL= Value Limitation
 VP= Viable Presence

M&O Impact on the Taxpayer

Under the assumptions used here, the potential tax savings from the value limitation total \$11.3 million over the life of the agreement. The W-LISD revenue losses are expected to total approximately \$794,726 over the course of the agreement. In total, the potential net tax benefits (after hold-harmless payments are made) are estimated to reach \$10.45 million, prior to any negotiations with Phoebe Energy on supplemental payments.

I&S Funding Impact on School District

The project remains fully taxable for debt services taxes, with W-LISD currently levying a \$0.28 per \$100 I&S rate. The project is not expected to affect school district enrollment and is expected to depreciate over the life of the agreement and beyond. Local taxpayers should benefit from the addition of the Phoebe Energy project to the local I&S tax roll, at least in the initial years of the project. Continued expansion of the project and related development could result in additional employment in the area and an increase in the school-age population, but this project is unlikely to have much impact on a stand-alone basis.

**Table 5 - Estimated Financial Impact of the Phoebe Energy Project Property Value Limitation Request
Submitted to W-LISD at \$1.04 per \$100 M&O Tax Rate**

Year of Agreement	School Year	Project Value	Estimated Taxable Value	Value Savings	Assumed M&O Tax Rate	Taxes Before Value Limit	Taxes after Value Limit	Tax Savings @ Projected M&O Rate	School District Revenue Losses	Estimated Net Tax Benefits
QTP1	2018-19	\$0	\$0	\$0	\$1.040	\$0	\$0	\$0	\$0	\$0
QTP2	2019-20	\$30,000,000	\$30,000,000	\$0	\$1.040	\$312,000	\$312,000	\$0	\$0	\$0
VL1	2020-21	\$248,500,000	\$25,000,000	\$223,500,000	\$1.040	\$2,584,400	\$260,000	\$2,324,400	-\$794,726	\$1,529,674
VL2	2021-22	\$211,275,000	\$25,000,000	\$186,275,000	\$1.040	\$2,197,260	\$260,000	\$1,937,260	\$0	\$1,937,260
VL3	2022-23	\$179,631,250	\$25,000,000	\$154,631,250	\$1.040	\$1,868,165	\$260,000	\$1,608,165	\$0	\$1,608,165
VL4	2023-24	\$152,731,688	\$25,000,000	\$127,731,688	\$1.040	\$1,588,410	\$260,000	\$1,328,410	\$0	\$1,328,410
VL5	2024-25	\$129,864,803	\$25,000,000	\$104,864,803	\$1.040	\$1,350,594	\$260,000	\$1,090,594	\$0	\$1,090,594
VL6	2025-26	\$110,425,808	\$25,000,000	\$85,425,808	\$1.040	\$1,148,428	\$260,000	\$888,428	\$0	\$888,428
VL7	2026-27	\$93,900,626	\$25,000,000	\$68,900,626	\$1.040	\$976,567	\$260,000	\$716,567	\$0	\$716,567
VL8	2027-28	\$79,852,287	\$25,000,000	\$54,852,287	\$1.040	\$830,464	\$260,000	\$570,464	\$0	\$570,464
VL9	2028-29	\$67,909,360	\$25,000,000	\$42,909,360	\$1.040	\$706,257	\$260,000	\$446,257	\$0	\$446,257
VL10	2029-30	\$57,756,127	\$25,000,000	\$32,756,127	\$1.040	\$600,664	\$260,000	\$340,664	\$0	\$340,664
VP1	2030-31	\$49,899,368	\$49,899,368	\$0	\$1.040	\$518,953	\$518,953	\$0	\$0	\$0
VP2	2031-32	\$49,884,400	\$49,884,400	\$0	\$1.040	\$518,798	\$518,798	\$0	\$0	\$0
VP3	2032-33	\$49,870,180	\$49,870,180	\$0	\$1.040	\$518,650	\$518,650	\$0	\$0	\$0
VP4	2033-34	\$49,856,671	\$49,856,671	\$0	\$1.040	\$518,509	\$518,509	\$0	\$0	\$0
VP5	2034-35	\$49,843,837	\$49,843,837	\$0	\$1.040	\$518,376	\$518,376	\$0	\$0	\$0
\$16,756,495 \$5,505,286 \$11,251,208 -\$794,726 \$10,456,482										

QTP= Qualifying Time Period
VL= Value Limitation
VP= Viable Presence

Note: School district revenue-loss estimates are subject to change based on numerous factors, including:

- Legislative and Texas Education Agency administrative changes to the underlying school finance formulas used in these calculations.
- Legislative changes addressing property value appraisals and exemptions.
- Year-to-year appraisals of project values and district taxable values.
- Changes in school district tax rates and student enrollment.

Attachment E

Taxable Value of Property



% Taxes

Property Tax

School and Appraisal Districts Property Value Study 2015 Report

2015 ISD Summary Worksheet

151/Loving
248-902/Wink-Loving ISD

Category	Local Tax Roll Value	2015 WTD Mean Ratio	2015 PTAD Value Estimate	2015 Value Assigned
A. Single-Family Residences	609,010	N/A	609,010	609,010
B. Multi-Family Residences	0	N/A	0	0
C1. Vacant Lots	73,270	N/A	73,270	73,270
C2. Colonia Lots	0	N/A	0	0
D1. Rural Real (Taxable)	627,150	N/A	627,150	627,150
D2. Real Prop Farm & Ranch	14,390	N/A	14,390	14,390
E. Real Prop NonQual Acres	3,094,860	N/A	3,094,860	3,094,860
F1. Commercial Real	555,420	N/A	555,420	555,420
F2. Industrial Real	129,750	N/A	129,750	129,750
G. Oil, Gas, Minerals	788,753,850	N/A	788,753,850	788,753,850
J. Utilities	157,592,370	N/A	157,592,370	157,592,370

L1. Commercial Personal	5,530,660	N/A	5,530,660	5,530,660
L2. Industrial Personal	134,794,510	N/A	134,794,510	134,794,510
M. Other Personal	165,950	N/A	165,950	165,950
N. Intangible Personal Prop	0	N/A	0	0
O. Residential Inventory	0	N/A	0	0
S. Special Inventory	0	N/A	0	0
Subtotal	1,091,941,190		1,091,941,190	1,091,941,190
Less Total Deductions	8,213,389		8,213,389	8,213,389
Total Taxable Value	1,083,727,801		1,083,727,801	1,083,727,801 T2

The taxable values shown here will not match the values reported by your appraisal district

See the ISD DEDUCTION Report for a breakdown of deduction values

Government code subsections 403.302 (J) AND (K) require the Comptroller to certify alternative measures of school district wealth. These measures are reported for taxable values for maintenance and operation (M&O) tax purposes and for interest and sinking fund (I&S) tax purposes. For districts that have not entered into value limitation agreements, T1 through T4 will be the same as T7 through T10.

Value Taxable For M&O Purposes

T1	T2	T3	T4
1,083,777,771	1,083,727,801	1,083,750,496	1,083,700,526

Loss To the Additional \$10,000 Homestead Exemption	50% of the loss to the Local Optional Percentage Homestead Exemption
49,970	27,275

T1 = School district taxable value for M&O purposes before the loss to the additional \$10,000 homestead exemption

T2 = School district taxable value for M&O purposes after the loss to the additional \$10,000 homestead exemption and the tax ceiling reduction

T3 = T1 minus 50% of the loss to the local optional percentage homestead exemption

T4 = T2 minus 50% of the loss to the local optional percentage homestead exemption

Value Taxable For I&S Purposes

T7	T8	T9	T10
1,083,777,771	1,083,727,801	1,083,750,496	1,083,700,526

T7 = School district taxable value for I&S purposes before the loss to the additional \$10,000 homestead exemption

T8 = School district taxable value for I&S purposes after the loss to the additional \$10,000 homestead exemption and the tax ceiling reduction

T9 = T7 minus 50% of the loss to the local optional percentage homestead exemption

T10 = T8 minus 50% of the loss to the local optional percentage homestead exemption

The PVS found your local value to be valid, and local value was certified

248/Winkler

248-902/Wink-Loving ISD

Category	Local Tax Roll Value	2015 WTD Mean Ratio	2015 PTAD Value Estimate	2015 Value Assigned
A. Single-Family Residences	13,242,080	N/A	13,242,080	13,242,080
B. Multi-Family Residences	55,720	N/A	55,720	55,720
C1. Vacant Lots	168,544	N/A	168,544	168,544
C2. Colonia Lots	0	N/A	0	0

D1. Rural Real (Taxable)	586,604	N/A	586,604	586,604
D2. Real Prop Farm & Ranch	65,530	N/A	65,530	65,530
E. Real Prop NonQual Acres	4,114,864	N/A	4,114,864	4,114,864
F1. Commercial Real	1,621,630	N/A	1,621,630	1,621,630
F2. Industrial Real	159,540	N/A	159,540	159,540
G. Oil, Gas, Mineral s	308,719,989	N/A	308,719,989	308,719,989
J. Utilities	73,674,950	N/A	73,674,950	73,674,950
L1. Commercial Personal	1,482,220	N/A	1,482,220	1,482,220
L2. Industrial Personal	46,143,740	N/A	46,143,740	46,143,740
M. Other Personal	1,216,070	N/A	1,216,070	1,216,070
N. Intangible Personal Prop	0	N/A	0	0
O. Residential Inventory	0	N/A	0	0
S. Special Inventory	0	N/A	0	0
Subtotal	451,251,481		451,251,481	451,251,481
Less Total Deductions	7,642,394		7,642,394	7,642,394
Total Taxable Value	443,609,087		443,609,087	443,609,087 T2

The taxable values shown here will not match the values reported by your appraisal district

See the ISD DEDUCTION Report for a breakdown of deduction values

Government code subsections 403.302 (J) AND (K) require the Comptroller to certify alternative measures of school district wealth. These measures are reported for taxable values for maintenance and operation (M&O) tax purposes and for interest and sinking fund (I&S) tax purposes. For districts that have not entered into value limitation agreements, T1 through T4 will be the same as T7 through T10.

Value Taxable For M&O Purposes

T1	T2	T3	T4
445,380,964	443,609,087	444,578,771	442,806,894

Loss To the Additional \$10,000 Homestead Exemption	50% of the Loss to the Local Optional Percentage Homestead Exemption
1,771,877	802,193

T1 = School district taxable value for M&O purposes before the loss to the additional \$10,000 homestead exemption

T2 = School district taxable value for M&O purposes after the loss to the additional \$10,000 homestead exemption and the tax ceiling reduction

T3 = T1 minus 50% of the loss to the local optional percentage homestead exemption

T4 = T2 minus 50% of the loss to the local optional percentage homestead exemption

Value Taxable For I&S Purposes

T7	T8	T9	T10
445,380,964	443,609,087	444,578,771	442,806,894

T7 = School district taxable value for I&S purposes before the loss to the additional \$10,000 homestead exemption

T8 = School district taxable value for I&S purposes after the loss to the additional \$10,000 homestead exemption and the tax ceiling reduction

T9 = T7 minus 50% of the loss to the local optional percentage homestead exemption

T10 = T8 minus 50% of the loss to the local optional percentage homestead exemption

The PVS found your local value to be valid, and local value was certified

248-902/Wink-Loving ISD

Category	Local Tax Roll Value	2015 WTD Mean Ratio	2015 PTAD Value Estimate	2015 Value Assigned
A. Single-Family Residences	13,851,090	N/A	13,851,090	13,851,090
B. Multi-Family Residences	55,720	N/A	55,720	55,720
C1. Vacant Lots	241,814	N/A	241,814	241,814
C2. Colonia Lots	0	N/A	0	0
D1. Rural Real (Taxable)	1,213,754	N/A	1,213,754	1,213,754
D2. Real Prop Farm & Ranch	79,920	N/A	79,920	79,920
E. Real Prop NonQual Acres	7,209,724	N/A	7,209,724	7,209,724
F1. Commercial Real	2,177,050	N/A	2,177,050	2,177,050
F2. Industrial Real	289,290	N/A	289,290	289,290
G. Oil, Gas, Minerals	1,097,473,839	N/A	1,097,473,839	1,097,473,839
J. Utilities	231,267,320	N/A	231,267,320	231,267,320
L1. Commercial Personal	7,012,880	N/A	7,012,880	7,012,880
L2. Industrial Personal	180,938,250	N/A	180,938,250	180,938,250
M. Other Personal	1,382,020	N/A	1,382,020	1,382,020
N. Intangible Personal Prop	0	N/A	0	0
O. Residential Inventory	0	N/A	0	0
S. Special Inventory	0	N/A	0	0
Subtotal	1,543,192,671		1,543,192,671	1,543,192,671

Less Total Deductions	15,855,783		15,855,783	15,855,783
Total Taxable Value	1,527,336,888		1,527,336,888	1,527,336,888 T2

The taxable values shown here will not match the values reported by your appraisal district

See the ISD DEDUCTION Report for a breakdown of deduction values

Attachment F

TEA's Facilities Value

Attachment G

Participation Agreement

**AGREEMENT FOR LIMITATION ON APPRAISED
VALUE OF PROPERTY FOR SCHOOL DISTRICT
MAINTENANCE AND OPERATIONS TAXES**

by and between

WINK-LOVING INDEPENDENT SCHOOL DISTRICT

and

PHOEBE ENERGY PROJECT, LLC

(Texas Taxpayer ID #32064451308)

Comptroller Application # 1217

Dated

December 12, 2017

**AGREEMENT FOR LIMITATION ON APPRAISED VALUE OF PROPERTY FOR
SCHOOL DISTRICT MAINTENANCE AND OPERATIONS TAXES**

STATE OF TEXAS §

COUNTY OF WINKLER

THIS AGREEMENT FOR LIMITATION ON APPRAISED VALUE OF PROPERTY FOR SCHOOL DISTRICT MAINTENANCE AND OPERATIONS TAXES, hereinafter referred to as this “Agreement,” is executed and delivered by and between the **WINK-LOVING INDEPENDENT SCHOOL DISTRICT**, hereinafter referred to as the “District,” a lawfully created independent school district within the State of Texas operating under and subject to the TEXAS EDUCATION CODE, and **PHOEBE ENERGY PROJECT, LLC**, Texas Taxpayer Identification Number 32064451308, hereinafter referred to as the “Applicant.” The Applicant and the District are hereinafter sometimes referred to individually as a “Party” and collectively as the “Parties.”

RECITALS

WHEREAS, on September 14, 2017, the Superintendent of Schools of the Wink-Loving Independent School District, acting as agent of the Board of Trustees of the District, received from the Applicant an Application for Appraised Value Limitation on Qualified Property, pursuant to Chapter 313 of the TEXAS TAX CODE;

WHEREAS, on September 14, 2017, the Board of Trustees has acknowledged receipt of the Application, and along with the requisite application fee as established pursuant to Section 313.025(a) of the TEXAS TAX CODE and Local District Policy CCG (Local), and agreed to consider the Application;

WHEREAS, the Application was delivered to the Texas Comptroller's Office for review pursuant to Section 313.025 of the TEXAS TAX CODE;

WHEREAS, the District and the Texas Comptroller's Office have determined that the Application is complete and October 26, 2017 is the Application Review Start Date as that term is defined by 34 TEXAS ADMIN. CODE Section 9.1051;

WHEREAS, pursuant to 34 TEXAS ADMIN. CODE Section 9.1054, the Application was

delivered to the Winkler Appraisal District established in Winkler, Texas (the “Winkler Appraisal District”), pursuant to Section 6.01 of the TEXAS TAX CODE;

WHEREAS, the Texas Comptroller’s Office reviewed the Application pursuant to Section 313.025 of the TEXAS TAX CODE, conducted an economic impact evaluation pursuant to Section 313.026 of the TEXAS TAX CODE, and on November 13, 2017, issued a certificate for limitation on appraised value of the property described in the Application and provided the certificate to the District;

WHEREAS, the Board of Trustees has reviewed and carefully considered the economic impact evaluation and certificate for limitation on appraised value submitted by the Texas Comptroller’s Office pursuant to Section 313.025 of the TEXAS TAX CODE;

WHEREAS, on December 7, 2017, the Board of Trustees conducted a public hearing on the Application at which it solicited input into its deliberations on the Application from all interested parties within the District;

WHEREAS, on December 12, 2017, the Board of Trustees made factual findings pursuant to Section 313.025(f) of the TEXAS TAX CODE, including, but not limited to findings that: (i) the information in the Application is true and correct; (ii) the Applicant is eligible for the limitation on appraised value of the Applicant’s Qualified Property; (iii) the project proposed by the Applicant is reasonably likely to generate tax revenue in an amount sufficient to offset the District’s maintenance and operations ad valorem tax revenue lost as a result of the Agreement before the 25th anniversary of the beginning of the limitation period; (iv) the limitation on appraised value is a determining factor in the Applicant’s decision to invest capital and construct the project in this State; and (v) this Agreement is in the best interest of the District and the State of Texas;

WHEREAS, on December 12, 2017, pursuant to the provisions of 313.025(f-1) of the TEXAS TAX CODE, the Board of Trustees waived the job creation requirement set forth in Section 313.051(b) of the TEXAS TAX CODE;

WHEREAS, on December 7, 2017, the Texas Comptroller’s Office approved the form of this Agreement for a Limitation on Appraised Value of Property for School District Maintenance and Operations Taxes;

WHEREAS, on December 12, 2017, the Board of Trustees approved the form of this Agreement for a Limitation on Appraised Value of Property for School District Maintenance and Operations Taxes, and authorized the Board President and Secretary, or in the event the Board President and Secretary are unavailable or have disclosed a conflict of interest, the Board of Trustees has authorized the Board Vice President to execute and deliver such Agreement to the Applicant; and

NOW, THEREFORE, for and in consideration of the premises and the mutual covenants and agreements herein contained, the Parties agree as follows:

ARTICLE I **DEFINITIONS**

Section 1.1 DEFINITIONS. Wherever used in this Agreement, the following terms shall have the following meanings, unless the context in which used clearly indicates another meaning. Words or terms defined in 34 TEXAS ADMIN. CODE Section 9.1051 and not defined in this Agreement shall have the meanings provided by 34 TEXAS ADMIN. CODE Section 9.1051.

“*Act*” means the Texas Economic Development Act set forth in Chapter 313 of the TEXAS TAX CODE, as amended.

“*Agreement*” means this Agreement, as the same may be modified, amended, restated, amended and restated, or supplemented as approved pursuant to Sections 10.2 and 10.3.

“*Applicant*” means Phoebe Energy Project, LLC, (*Texas Taxpayer ID #32064451308*) the entity listed in the Preamble of this Agreement and that is listed as the Applicant on the Application as of the Application Approval Date. The term “Applicant” shall also include the Applicant’s assigns and successors-in-interest as approved according to Sections 10.2 and 10.3 of this Agreement.

“*Applicant’s Qualified Investment*” means the Qualified Investment of the Applicant during the Qualifying Time Period and as more fully described in **EXHIBIT 3** of this Agreement.

“*Applicant’s Qualified Property*” means the Qualified Property of the Applicant to which the value limitation identified in the Agreement will apply and as more fully described in **EXHIBIT 4** of this Agreement.

“*Application*” means the Application for Appraised Value Limitation on Qualified Property (Chapter 313, Subchapter B or C of the TEXAS TAX CODE) filed with the District by the Applicant on September 14, 2017. The term includes all forms required by the Comptroller, the schedules attached thereto, and all other documentation submitted by the Applicant for the purpose of obtaining an Agreement with the District. The term also includes all amendments and supplements thereto submitted by the Applicant.

“*Application Approval Date*” means the date that the Application is approved by the Board

of Trustees of the District and as further identified in Section 2.3.B of this Agreement.

“Application Review Start Date” means the later date of either the date on which the District issues its written notice that the Applicant has submitted a completed Application or the date on which the Comptroller issues its written notice that the Applicant has submitted a completed Application and as further identified in Section 2.3.A of this Agreement.

“Appraised Value” shall have the meaning assigned to such term in Section 1.04(8) of the TEXAS TAX CODE.

“Appraisal District” means the Winkler Appraisal District.

“Board of Trustees” means the Board of Trustees of the Wink-Loving Independent School District.

“Commercial Operation” means the date the Project begins supplying electricity in commercial quantities to the transmission system and is connected to the grid with an interconnection agreement.

“Comptroller” means the Texas Comptroller of Public Accounts, or the designated representative of the Texas Comptroller of Public Accounts acting on behalf of the Comptroller.

“Comptroller’s Rules” means the applicable rules and regulations of the Comptroller set forth in Chapter 34 TEXAS ADMIN. CODE Chapter 9, Subchapter F, together with any court or administrative decisions interpreting same.

“County” means Winkler, Texas.

“District” or “School District” means the Wink-Loving Independent School District, being a duly authorized and operating school district in the State, having the power to levy, assess, and collect ad valorem taxes within its boundaries and to which Subchapter C of the Act applies. The term also includes any successor independent school district or other successor governmental authority having the power to levy and collect ad valorem taxes for school purposes on the Applicant’s Qualified Property or the Applicant’s Qualified Investment.

“Final Termination Date” means the last date of the final year in which the Applicant is required to Maintain Viable Presence and as further identified in Section 2.3.E of this Agreement.

“Force Majeure” means those causes generally recognized under Texas law as constituting impossible conditions. Each Party must inform the other in writing with proof of receipt within

sixty (60) business days of the existence of such Force Majeure or otherwise waive this right as a defense.

“Land” means the real property described on **EXHIBIT 2**, which is attached hereto and incorporated herein by reference for all purposes.

“Maintain Viable Presence” means (i) the operation during the term of this Agreement of the facility or facilities for which the tax limitation is granted; and (ii) the Applicant’s maintenance of jobs and wages as required by the Act and as set forth in its Application.

“Market Value” shall have the meaning assigned to such term in Section 1.04(7) of the TEXAS TAX CODE.

“New Qualifying Jobs” means the total number of jobs to be created by the Applicant after the Application Approval Date in connection with the project that is the subject of its Application that meet the criteria of Qualifying Job as defined in Section 313.021(3) of the TEXAS TAX CODE and the Comptroller’s Rules.

“New Non-Qualifying Jobs” means the number of Non-Qualifying Jobs, as defined in 34 TEXAS ADMIN. CODE Section 9.1051(14), to be created by the Applicant after the Application Approval Date in connection with the project which is the subject of its Application.

“Qualified Investment” has the meaning set forth in Section 313.021(1) of the TEXAS TAX CODE, as interpreted by the Comptroller’s Rules.

“Qualified Property” has the meaning set forth in Section 313.021(2) of the TEXAS TAX CODE and as interpreted by the Comptroller’s Rules and the Texas Attorney General, as these provisions existed on the Application Review Start Date.

“Qualifying Time Period” means the period defined in Section 2.3.C, during which the Applicant shall make investment on the Land where the Qualified Property is located in the amount required by the Act, the Comptroller’s Rules, and this Agreement.

“State” means the State of Texas.

“Supplemental Payment” means any payments or transfers of things of value made to the District or to any person or persons in any form if such payment or transfer of thing of value being provided is in recognition of, anticipation of, or consideration for the Agreement and that is not authorized pursuant to Sections 313.027(f)(1) or (2) of the TEXAS TAX CODE, and specifically includes any payments required pursuant to Article VI of this Agreement.

“Tax Limitation Amount” means the maximum amount which may be placed as the Appraised Value on the Applicant’s Qualified Property for maintenance and operations tax assessment in each Tax Year of the Tax Limitation Period of this Agreement pursuant to Section 313.054 of the TEXAS TAX CODE.

“Tax Limitation Period” means the Tax Years for which the Applicant’s Qualified Property is subject to the Tax Limitation Amount and as further identified in Section 2.3.D of this Agreement.

“Tax Year” shall have the meaning assigned to such term in Section 1.04(13) of the TEXAS TAX CODE (*i.e.*, the calendar year).

“Taxable Value” shall have the meaning assigned to such term in Section 1.04(10) of the TEXAS TAX CODE.

Section 1.2 NEGOTIATED DEFINITIONS. Wherever used in Articles IV, V, and VI, the following terms shall have the following meanings, unless the context in which used clearly indicates another meaning or otherwise; provided however, if there is a conflict between a term defined in this section and a term defined in the Act, the Comptroller’s Rules, or Section 1.1 of Agreement, the conflict shall be resolved by reference to Section 10.9.C.

“Applicable School Finance Law” means Chapters 41 and 42 of the TEXAS EDUCATION CODE, the Texas Economic Development Act (Chapter 313 of the TEXAS TAX CODE), Chapter 403, Subchapter M, of the TEXAS GOVERNMENT CODE applicable to District, and the Constitution and general laws of the State applicable to the school districts of the State for each and every year of this Agreement, including specifically, the applicable rules and regulations of the agencies of the State having jurisdiction over any matters relating to the public school systems and school districts of the State, and judicial decisions construing or interpreting any of the above. The term includes any and all amendments or successor statutes that may be adopted in the future that could impact or alter the calculation of Applicant’s ad valorem tax obligation to District, either with or without the limitation of property values made pursuant to this Agreement. For each year of this Agreement, the “Applicable School Finance Law” shall be interpreted to include all provisions made applicable for any calculations made for the specific year for which calculations are being made.

“Cumulative Unadjusted Tax Benefit” means for each Tax Year of this Agreement, the Unadjusted Tax Benefit for such Tax Year added to the Unadjusted Tax Benefit for all previous Tax Years during the term of this Agreement.

“M&O Amount” means the amount to be paid by Applicant to compensate District for loss of Maintenance and Operations Revenue resulting from, or on account of, this Agreement for each year starting in the year of the Application Review Start Date and ending on the Final Termination Date as

set forth in Section 4.2 of this Agreement.

“New M&O Revenue” means the total State and local Maintenance and Operations Revenue that District actually received for such school year.

“Net Tax Benefit” means, for any subject Tax Year during the term of this Agreement, an amount equal to (but not less than zero): (i) the amount of maintenance and operations ad valorem taxes which the Applicant would have paid to the District for all Tax Years during the term of this Agreement up to and including the subject Tax Year if this Agreement had not been entered into by the Parties; *minus*, (ii) an amount equal to the sum of (A) all maintenance and operations ad valorem school taxes actually due to the District or any other governmental entity, including the State of Texas, for all Tax Years during the term of this Agreement up to and including the subject Tax Year, plus (B) any and all payments due to the District under Articles IV, V, and VI of this Agreement up to and including the subject Tax Year.

“Revenue Protection Amount” means the amount calculated pursuant to Section 3.2 of this Agreement.

“Original M&O Revenue” means the total State and local Maintenance and Operations Revenue that District would have received for the Tax Year, under the Applicable School Finance Law had this Agreement not been entered into by the Parties and the Applicant’s Qualified Property been subject to the ad valorem maintenance & operations tax at the rate applicable for such Tax Year. For purposes of this calculation, the Third Party will base its calculations upon actual local taxable values for each applicable year as certified by the County Appraisal District for all other taxable accounts in the District, save and except for the Qualified Property subject to this Agreement, *plus* the total appraised value of the Qualified Property subject to this Agreement. In this calculation, the total appraised value of the Qualified Property subject to this Agreement will be used for the Qualified Property in lieu of the property’s M&O taxable value. (For clarification, the taxable value used by the District in calculating the taxes payable for Interest and Sinking Fund taxation purposes on Applicant’s Qualified Property will be used for the Qualified Property in lieu of the property’s M&O taxable value.)

ARTICLE II **AUTHORITY, PURPOSE AND LIMITATION AMOUNTS**

Section 2.1. AUTHORITY. This Agreement is executed by the District as its written agreement with the Applicant pursuant to the provisions and authority granted to the District in Section 313.027 of the TEXAS TAX CODE.

Section 2.2. PURPOSE. In consideration of the execution and subsequent performance of the terms and obligations by the Applicant pursuant to this Agreement, identified in Sections 2.5 and 2.6 as

more fully specified in this Agreement, the value of the Applicant's Qualified Property listed and assessed by the County Appraiser for the District's maintenance and operation ad valorem property tax shall be the Tax Limitation Amount as set forth in Section 2.4 of this Agreement during the Tax Limitation Period.

Section 2.3. TERM OF THE AGREEMENT.

A. The Application Review Start Date for this Agreement is October 26, 2017, which will be used to determine the eligibility of the Applicant's Qualified Property and all applicable wage standards.

B. The Application Approval Date for this Agreement is December 12, 2017.

C. The Qualifying Time Period for this Agreement:

- i. Starts on January 1, 2018, a date not later than January 1 of the fourth Tax Year following the Application Approval Date for deferrals, as authorized by § 313.027(h) of the Texas Tax Code; and
- ii. Ends on December 31, 2019, the last day of the second complete Tax Year following the Qualifying Time Period start date.

D. The Tax Limitation Period for this Agreement:

- i. Starts on January 1, 2020, the first complete Tax Year after the Qualifying Time Period;
- ii. Ends on December 31, 2029.

E. The Final Termination Date for this Agreement is December 31, 2034.

F. This Agreement, and the obligations and responsibilities created by this Agreement, shall be and become effective on the Application Approval Date identified in Section 2.3.B. This Agreement, and the obligations and responsibilities created by this Agreement, terminate on the Final Termination Date identified in Section 2.3.E, unless extended by the express terms of this Agreement.

Section 2.4. TAX LIMITATION. So long as the Applicant makes the Qualified Investment as required by Section 2.5, during the Qualifying Time Period, and unless this Agreement has been terminated as provided herein before such Tax Year, on January 1 of each Tax Year of the Tax Limitation Period, the Appraised Value of the Applicant's Qualified Property for the District's maintenance and operations ad valorem tax purposes shall not exceed the lesser of:

A. the Market Value of the Applicant's Qualified Property; or Twenty-Five Million Dollars (\$25,000,000) based on Section 313.054 of the TEXAS TAX CODE

This Tax Limitation Amount is based on the limitation amount for the category that applies to the District on the Application Approval Date, as set out by Section 313.052.

Section 2.5. TAX LIMITATION ELIGIBILITY. In order to be eligible and entitled to receive the value limitation identified in Section 2.4 for the Qualified Property identified in Article III, the Applicant shall:

- A. have completed the Applicant's Qualified Investment in the amount of \$20,000,000 during the Qualifying Time Period;
- B. have created and maintained, subject to the provisions of Section 313.0276 of the TEXAS TAX CODE, New Qualifying Jobs as required by the Act; and
- C. pay an average weekly wage of at least \$1,162 for all New Non-Qualifying Jobs created by the Applicant.

Section 2.6. TAX LIMITATION OBLIGATIONS. In order to receive and maintain the limitation authorized by Section 2.4, Applicant shall:

- A. provide payments to District sufficient to protect future District revenues through payment of revenue offsets and other mechanisms as more fully described in Article IV;
- B. provide payments to the District that protect the District from the payment of extraordinary education- related expenses related to the project, as more fully specified in Article V;
- C. provide such Supplemental Payments as more fully specified in Article VI;
- D. create and Maintain Viable Presence on or with the Qualified Property and perform additional obligations as more fully specified in Article VIII of this Agreement; and
- E. No additional conditions are identified in the certificate for a limitation on appraised value by the Comptroller for this project.

ARTICLE III **QUALIFIED PROPERTY**

Section 3.1. LOCATION WITHIN ENTERPRISE OR REINVESTMENT ZONE. At the time of the Application Approval Date, the Land is within an area designated either as an enterprise zone, pursuant to Chapter 2303 of the TEXAS GOVERNMENT CODE, or a reinvestment zone, pursuant to Chapter 311 or 312 of the TEXAS TAX CODE. The legal description, and information concerning the designation, of such zone is attached to this Agreement as **EXHIBIT 1** and is incorporated herein by reference for all purposes.

Section 3.2. LOCATION OF QUALIFIED PROPERTY AND INVESTMENT. The Land on which the Qualified Property shall be located and on which the Qualified Investment shall be made is described in **EXHIBIT 2**, which is attached hereto and incorporated herein by reference for all purposes. The Parties expressly agree that the boundaries of the Land may not be materially changed

from its configuration described in **EXHIBIT 2** unless amended pursuant to the provisions of Section 10.2 of this Agreement.

Section 3.3. DESCRIPTION OF QUALIFIED PROPERTY. The Qualified Property that is subject to the Tax Limitation Amount is described in **EXHIBIT 4**, which is attached hereto and incorporated herein by reference for all purposes. Property which is not specifically described in **EXHIBIT 4** shall not be considered by the District or the Appraisal District to be part of the Applicant's Qualified Property for purposes of this Agreement, unless by official action the Board of Trustees provides that such other property is a part of the Applicant's Qualified Property for purposes of this Agreement in compliance with Section 313.027(e) of the TEXAS TAX CODE, the Comptroller's Rules, and Section 10.2 of this Agreement.

Section 3.4. CURRENT INVENTORY OF QUALIFIED PROPERTY. In addition to the requirements of Section 10.2 of this Agreement, if there is a material change in the Qualified Property described in **EXHIBIT 4**, then within 60 days from the date Commercial Operation begins, the Applicant shall provide to the District, the Comptroller, the Appraisal District or the State Auditor's Office a specific and detailed description of the tangible personal property, buildings, and/or permanent, nonremovable building components (including any affixed to or incorporated into real property) on the Land to which the value limitation applies including maps or surveys of sufficient detail and description to locate all such described property on the Land.

Section 3.5. QUALIFYING USE. The Applicant's Qualified Property described in Section 3.3 qualifies for a tax limitation agreement under Section 313.024(b)(5) of the Texas Tax Code as used for renewable energy electric generation.

ARTICLE IV **PROTECTION AGAINST LOSS OF FUTURE DISTRICT REVENUES**

Section 4.1. INTENT OF THE PARTIES. Subject only to the limitations contained in Section 7.1 of this Agreement, it is the intent of the Parties that the District shall, in accordance with the provisions of Section 313.027(f)(1) of the TEXAS TAX CODE, be compensated by Applicant for any loss that District incurs in its Maintenance and Operations Revenue in each year of this Agreement for which this Agreement was a sole and direct cause, all as calculated in Section 4.2 below. Such payments shall be independent of, and in addition to such other payments as set forth in Article V and Article VI in this Agreement.

The Parties hereto expressly understand and agree that, for all years to which this Agreement may apply, the calculation of negative financial consequences will be defined for each applicable Tax Year in accordance with the Applicable School Finance Law, as defined in Section 1.2 above, and that such definition specifically contemplates that calculations made under this Agreement may periodically

change in accordance with changes made from time to time in the Applicable School Finance Law. The Parties further agree that the printouts and projections produced during the negotiations and approval of this Agreement are: i) for illustrative purposes only, are not intended to be relied upon, and have not been relied upon by the Parties as a prediction of future consequences to either Party to the Agreement; ii) are based upon current School Finance Law, which is subject to change by statute, by administrative regulation, or by judicial decision at any time; and, iii) may change in future years to reflect changes in the Applicable School Finance Law.

Section 4.2. CALCULATING THE AMOUNT OF LOSS OF REVENUES BY THE DISTRICT. Subject only to the provisions of Section 7.1 of this Agreement, the amount to be paid by Applicant to compensate District for loss of Maintenance and Operations Revenue resulting from, or on account of, this Agreement for each year starting in the year of the Application Review Start Date and ending on the Final Termination Date, the "M&O Amount" shall be determined in compliance with the Applicable School Finance Law in effect for such year and according to the following formula:

- A. Notwithstanding any other provision in this Agreement, the M&O Amount owed by Applicant to District means the Original M&O Revenue *minus* the New M&O Revenue.
- B. In making the calculations required by this Section 4.2 of this Agreement:
 - i. The Taxable Value of property for each school year will be determined under the Applicable School Finance Law as that law exists for each year for which the calculation is made.
 - ii. For purposes of this calculation, the tax collection rate on the Applicant's Qualified Property will be presumed to be one hundred percent (100%).
 - iii. If, for any year of this Agreement, the difference between the Original M&O Revenue and the New M&O Revenue, as calculated under this Section 4.2 of this Agreement, results in a negative number, the negative number will be considered to be zero.
 - iv. For all calculations made for years during the Tax Limitation Period under Section 4.2 of this Agreement, Subsection ii of this subsection will reflect the Tax Limitation Amount for such year
- C. Annual Limitation of Revenue Protection Amount paid by Applicant
Notwithstanding anything contained in this Agreement to the contrary, for each Tax Year of the Tax Limitation Period (beginning with Tax Year 2020), amounts due to be paid by Applicant under this Article IV for any Tax Year during the Limitation Period

shall not exceed an amount equal to Seventy-Five Percent (75%) of Applicant's Cumulative Unadjusted Tax Benefit under this Agreement. Beginning with the first Tax Year of the Tax Limitation Period (Tax Year 2020) and for each subsequent year of this Agreement through the third Tax Year after the end of the Tax Limitation Period (2032), any amounts due and owing by Applicant to the District pursuant to Article IV of this Agreement which, by virtue of the payment limitation set forth in this Section 4.2.C, were not paid in prior years, shall be carried forward and added to the amounts due pursuant to Articles IV for each subsequent Tax Year until paid. In no event shall the amounts paid by the Applicant, calculated under Article IV for each Tax Year, including unpaid amounts carried forward from prior years, be in excess of (i) an amount equal to Seventy-Five Percent (75%) of Applicant's Cumulative Unadjusted Tax Benefit under this Agreement from the first day of the Qualifying Time Period through the current Tax Year, less (ii) all amounts paid by Applicant for all previous Tax Years under Article IV of this Agreement. The amounts described in this Section 4.2.C shall be included in all calculations made pursuant to Section 4.3.

Section 4.3. CALCULATIONS TO BE MADE BY THIRD PARTY. All calculations under this Agreement shall be made annually by an independent third party (the "Third Party") selected each year by the District and subject to approval by Applicant, which approval shall not be unreasonably withheld. To the extent not inconsistent with a statutory change to Applicable School Finance Law, all calculations made by the Third Party under this Agreement shall be made using a methodology which isolates only the revenue impact caused by this Agreement. Applicant shall not be responsible to reimburse District for other revenue losses created by other agreements or any other factors.

Section 4.4. DATA USED FOR CALCULATIONS. The calculations for payments under this Agreement shall be initially based upon the valuations placed upon the Applicant's Qualified Investment and/or the Applicant's Qualified Property by the Appraisal District in its annual certified tax roll submitted to the District for each Tax Year pursuant to Texas Tax Code § 26.01 on or about July 25 of each year of this Agreement. Immediately upon receipt of the valuation information by the District, the District shall submit the valuation information to the Third Party selected under Section 4.3. The certified tax roll data shall form the basis of the calculation of any and all amounts due under this Agreement. All other data utilized by the Third Party to make the calculations contemplated by this Agreement shall be based upon the best available current estimates. The data utilized by the Third Party shall be adjusted from time to time by the Third Party to reflect actual amounts, subsequent adjustments by the Appraisal District to the District's certified tax roll or any other changes in student counts, tax collections, or other data.

Section 4.5. DELIVERY OF CALCULATIONS. On or before November 1 of each year for which this Agreement is effective, the Third Party appointed pursuant to Section 4.3 of this Agreement shall forward to the Parties a certification containing the calculations required under Sections 4.2 Article VI, and/or Section 7.1 of this Agreement in sufficient detail to allow the Parties to understand the

manner in which the calculations were made. The Third Party shall simultaneously submit his, her or its invoice for fees for services rendered to the Parties, if any fees are being claimed, which fee shall be the sole responsibility of the District, but subject to the provisions of Section 4.7, below. Upon reasonable prior notice, the employees and agents of the Applicant shall have access, at all reasonable times, to the Third Party's calculations, records, and correspondence pertaining to the calculation and fee for the purpose of verification. The Third Party shall maintain supporting data consistent with generally accepted accounting practices, and the employees and agents of the Applicant shall have the right to reproduce and retain for purpose of audit, any of these documents. The Third Party shall preserve all documents pertaining to the calculation until the Final Termination Date of this Agreement. The Applicant shall not be liable for any of the Third Party's costs resulting from an audit of the Third Party's books, records, correspondence, or work papers pertaining to the calculations contemplated by this Agreement. Should the Applicant disagree with the certification containing the calculations, the Applicant may appeal the findings, in writing, to the Third Party within thirty (30) days following the later of (i) receipt of the certification, or (ii) the date the Applicant is granted access to the books, records and other information in accordance with Section 4.6 for purposes of auditing or reviewing the information in connection with the certification. Within thirty (30) days of receipt of the Applicant's appeal, the Third Party will issue, in writing, a final determination of the certification containing the calculations. Thereafter, the Applicant may appeal the final determination of certification containing the calculations to the District. Any appeal by the Applicant of the final determination of the Third Party may be made, in writing, to the Board of Trustees within thirty (30) days of the final determination of certification containing the calculations, and shall be without limitation of the Applicant's other rights and remedies available hereunder, at law or in equity.

Section 4.6. PAYMENT BY APPLICANT. The Applicant shall pay any amount determined by the Third Party to be due and owing to the District under this Agreement on or before the January 31 next following the tax levy for each year for which this Agreement is effective. By such date, the Applicant shall also pay any amount billed by the Third Party, plus any reasonable and necessary out-of-pocket third party legal expenses paid by the District for which an invoice has been sent to Applicant to its attorneys, auditors, or financial consultants for the preparation and filing of any financial reports, disclosures, or other reimbursement applications filed with or sent to the State of Texas which are, or may be required under the terms or because of the execution of this Agreement. For no Tax Year during the term of this Agreement shall the Applicant be responsible for the payment of an aggregate amount of fees and expenses under this Section 4.6 which exceeds Twelve Thousand Five Hundred Dollars (\$12,500.00).

Section 4.7. EFFECT OF PROPERTY VALUE APPEAL OR OTHER ADJUSTMENT. If at the time the Third Party selected under Section 4.3 makes its calculations under this Agreement, the Applicant has appealed any matter relating to the valuations placed by the Appraisal District on the Applicant's Qualified Property, and/or the Applicant's Qualified Property and such appeal remains unresolved, the Third Party shall base its calculations upon the values placed upon the Applicant's Qualified

Property and/or the Applicant's Qualified Property by the Appraisal District.

If as a result of an appeal or for any other reason, the Taxable Value of the Applicant's Qualified Investment and/or the Applicant's Qualified Property is changed, once the determination of the new Taxable Value becomes final, the Parties shall immediately notify the Third Party who shall immediately issue new calculations for the applicable year or years using the new Taxable Value. In the event the new calculations result in a change in any amount paid or payable by the Applicant under this Agreement, the Party from whom the adjustment is payable shall remit such amounts to the other Party within thirty (30) days of the receipt of the new calculations from the Third Party.

Section 4.8. STATUTORY CHANGES AFFECTING M&O REVENUE. Notwithstanding any other provision in this Agreement, but subject to the limitations contained in Section 7.1 of this Agreement, in the event that, by virtue of statutory changes to the Applicable School Finance Law, administrative interpretations by Comptroller, Commissioner of Education, or the Texas Education Agency, or for any other reason attributable to statutory change, District will receive less Maintenance and Operations Revenue, or, if applicable, will be required to increase its payment of funds to the State, because of its participation in this Agreement, Applicant shall make payments to District within thirty (30) days of receipt of written notice, up to the revenue protection amount limit set forth in Section 7.1, that are necessary to offset any negative impact on District's Maintenance and Operations Revenue, as a result of its participation in this Agreement. Such calculation shall take into account any adjustments to the amount calculated for the current fiscal year that should be made in order to reflect the actual impact on District.

ARTICLE V **PAYMENT OF EXTRAORDINARY EDUCATION-RELATED EXPENSES**

Section 5.1. EXTRAORDINARY EXPENSES. In addition to the amounts determined pursuant to Section 4.2 of this Agreement above, Applicant on an annual basis shall also indemnify and reimburse District for the following: all non-reimbursed costs, certified by District's external auditor to have been incurred by District for extraordinary education-related expenses related to the project that are not directly funded in state aid formulas, including expenses for the purchase of portable classrooms and the hiring of additional personnel to accommodate a temporary increase in student enrollment attributable to the project during any project construction year.

ARTICLE VI **SUPPLEMENTAL PAYMENTS**

Section 6.1. INTENT OF PARTIES WITH RESPECT TO SUPPLEMENTAL PAYMENTS

A. Amounts Exclusive of Indemnity Amounts. In addition to undertaking the responsibility for the payment of all of the amounts set forth under Articles IV and V, and as further consideration for the execution of this Agreement by the District, the Applicant shall also be responsible for the Supplemental Payments to be calculated as set forth in this Article VI. The Applicant shall not be responsible to the District or to any other person or persons in any form for the payment or transfer of money or any other thing of value in recognition of, anticipation of, or consideration for this Agreement for limitation on appraised value made pursuant to Chapter 313, Texas Tax Code, unless it is explicitly set forth in this Agreement. It is the express intent of the Parties that the Applicant's obligation to make Supplemental Payments under this Article VI is separate and independent of the obligation of the Applicant to pay the amounts described in Articles IV and V; provided, however, that all Supplemental Payments under Articles IV and V are subject to the limitations contained in Section 7.1, and that all payments under this Article IV are subject to the separate limitations contained in Section 6.2.

B. Adherence to Statutory Limits on Supplemental Payments. It is the express intent of the Parties that any Supplemental Payments made to or on behalf of the District by the Applicant under this Article VI shall not exceed the limit imposed by the provisions of Texas Tax Code §313.027(i), as such limit is allowed to be increased by the Legislature for any future year of this Agreement.

Section 6.2. SUPPLEMENTAL PAYMENT LIMITATION. Notwithstanding the foregoing:

A. The total of the Supplemental Payments made pursuant to this Article shall: not exceed for any calendar year of this Agreement an amount equal to the greater of One Hundred Dollars (\$100.00) per student per year in average daily attendance, as defined by Section 42.005 of the TEXAS EDUCATION CODE, or Fifty Thousand Dollars (\$50,000.00) per year times the number of years beginning with the first complete or partial year of the Qualifying Time Period identified in Section 2.3.C and ending with the year for which the Supplemental Payment is being calculated minus all Supplemental Payments previously made by the Application;

B. Supplemental Payments may only be made during the period starting the first year of the Qualifying Time Period and ending December 31 of the third year following the end of the Tax Limitation Period:

C. the limitation in Section 6.2.A does not apply to amounts described by Section 313.027(f)(1)- (2) of the TEXAS TAX CODE as implemented in Articles IV and V of this Agreement.

D. For purposes of this Agreement, the calculation of the limit of the annual Supplemental Payment shall be the greater of \$50,000 or \$100 multiplied by the District's Average Daily Attendance as calculated pursuant to Section 42.005 of the TEXAS EDUCATION CODE, based upon the District's 2016-2017 Average Daily Attendance of 390, rounded to the nearest whole

number.

Section 6.3. STIPULATED SUPPLEMENTAL PAYMENT AMOUNT - SUBJECT TO ANNUAL PAYMENT LIMIT. The District shall receive Supplemental Payments on in the dates set forth on the following schedule.

TAX YEAR	PAYMENT DUE DATE	AMOUNT OF ANNUAL PAYMENT LIMIT
2020	January 31, 2021	\$75,000
2021	January 31, 2022	\$75,000
2022	January 31, 2023	\$75,000
2023	January 31, 2024	\$75,000
2024	January 31, 2025	\$50,000
2025	January 31, 2026	\$50,000
2026	January 31, 2027	\$50,000
2027	January 31, 2028	\$50,000
2028	January 31, 2029	\$50,000
2029	January 31, 2030	\$50,000
2030	January 31, 2031	\$50,000
2031	January 31, 2032	\$50,000
2032	January 31, 2033	\$50,000

Applicant expressly agrees and warrants that Applicant's will be obligated to have made Supplemental Payments to the District in an amount equal to Fifty Thousand Dollars (\$50,000.00) per year for each Tax Year of this Agreement beginning with tax year 2018 and ending on the date of the termination of this Agreement. In calculating any amount owed under this provision, Applicant shall be entitled to a credit for all payments made to the District under chart set forth in the foregoing paragraph. Applicant's payments under this Paragraph shall be due and owing to the District on or before thirty (30) days following the termination of this Agreement. This payment obligation shall survive the termination or expiration dates of this Agreement. Failure to make such payments shall be treated as a Material Breach of the Agreement and be subject to the provisions of Article IX, below.

Section 6.4. PROCEDURES FOR SUPPLEMENTAL PAYMENT CALCULATIONS

A. All calculations required by this Article shall be calculated by the Third Party selected pursuant to Section 4.3, above.

B. The calculations made by the Third Party shall be made at the same time and on the same schedule as the calculations made pursuant to Section 4.6, above.

C. The payment of all amounts due under this Article shall be made shall be paid on the

same date established by Section 4.6 for such Tax Year.

Section 6.5. DISTRICT'S OPTION TO DESIGNATE SUCCESSOR BENEFICIARY. At any time during this Agreement, the District's Board of Trustees may, in its sole discretion, so long as such decision does not result in additional costs to the Applicant under this Agreement, direct that the Applicant's payment obligations under Article VI of this agreement be made to its educational foundation, or to a similar entity. The alternative entity may only use such funds received under this Article to support the educational mission of the District and its students. Any designation of an alternative entity must be made by recorded vote of the District's Board of Trustees at a properly posted public Board meeting. Any such designation will become effective after public vote and the delivery of notice of said vote to the Applicant in conformance with the provisions of Section 10.1, below. Such designation may be rescinded, with respect to future payments only, by action of the District's Board of Trustees at any time.

Any designation of a successor beneficiary under this Section shall not alter the Supplemental Payments calculated as described in Section 6.5, above.

ARTICLE VII **ANNUAL LIMITATION OF PAYMENTS BY APPLICANT**

Section 7.1. ANNUAL LIMITATION. Notwithstanding anything contained in this Agreement to the contrary, and with respect to each Tax Year of the Tax Limitation Period beginning after the first Tax Year of the Tax Limitation Period, in no event shall (i) the sum of the maintenance and operations ad valorem taxes paid by the Applicant to the District for such Tax Year, plus the sum of all payments otherwise due from the Applicant to the District under Articles IV, V, and VI of this Agreement with respect to such Tax Year, exceed (ii) the amount of the maintenance and operations ad valorem taxes that the Applicant would have paid to the District for such Tax Year (determined by using the District's actual maintenance and operations tax rate for such Tax Year) if the Parties had not entered into this Agreement. The calculation and comparison of the amounts described in clauses (i) and (ii) of the preceding sentence shall be included in all calculations made pursuant to Article IV of this Agreement, and in the event the sum of the amounts described in said clause (i) exceeds the amount described in said clause (ii), then the payments otherwise due from the Applicant to the District under Articles IV, V, and VI shall be reduced until such excess is eliminated.

Section 7.2. OPTION TO TERMINATE AGREEMENT. In the event the Applicant determines that it will not commence or complete construction of the Applicant's Qualified Investment, the Applicant shall have the option, prior to the beginning of the Tax Limitation Period, to terminate this Agreement by notifying the District in writing of its exercise of such option and such termination will be effective as of the date set forth in the notice. Additionally, in the event that any payment otherwise due from the Applicant to the District under Article IV, Article V, or Article

VI of this Agreement with respect to a Tax Year is subject to reduction in accordance with the provisions of Section 7.1, then the Applicant shall have the option to terminate this Agreement. The Applicant may exercise such option to terminate this Agreement by notifying the District of its election in writing not later than the July 31 of the year following the Tax Year with respect to which a reduction under Section 7.1 is applicable. Any termination of this Agreement under the foregoing provisions of this Section 7.2 shall be effective immediately prior to the second Tax Year next following the Tax Year in which the reduction giving rise to the option occurred.

Section 7.3. EFFECT OF OPTIONAL TERMINATION. Upon the exercise of the option to terminate pursuant to Section 7.2, this Agreement shall terminate and be of no further force or effect; provided, however, that:

A. the Parties respective rights and obligations under this Agreement with respect to the Tax Year or Tax Years (as the case may be) through and including the Tax Year during which such notification is delivered to the District, shall not be impaired or modified as a result of such termination and shall survive such termination unless and until satisfied and discharged; and

B. the provisions of this Agreement regarding payments (including liquidated damages and tax payments), records and dispute resolution shall survive the termination or expiration of this Agreement.

ARTICLE VIII **ADDITIONAL OBLIGATIONS OF APPLICANT**

Section 8.1. APPLICANT'S OBLIGATION TO MAINTAIN VIABLE PRESENCE. In order to receive and maintain the limitation authorized by Section 2.4 in addition to the other obligations required by this Agreement, the Applicant shall Maintain Viable Presence in the District commencing at the start of the Tax Limitation Period through the Final Termination Date of this Agreement. Notwithstanding anything contained in this Agreement to the contrary, the Applicant shall not be in breach of, and shall not be subject to any liability for failure to Maintain Viable Presence to the extent such failure is caused by Force Majeure, provided the Applicant makes commercially reasonable efforts to remedy the cause of such Force Majeure.

Section 8.2. REPORTS. In order to receive and maintain the limitation authorized by Section 2.4 in addition to the other obligations required by this Agreement, the Applicant shall submit all reports required from time to time by the Comptroller, listed in 34 TEXAS ADMIN. CODE Section 9.1052 and as currently located on the Comptroller's website, including all data elements required by such form to the satisfaction of the Comptroller on the dates indicated on the form or the Comptroller's website and starting on the first such due date after the Application Approval Date.

Section 8.3. COMPTROLLER'S REPORT ON CHAPTER 313 AGREEMENTS. During the term of this Agreement, both Parties shall provide the Comptroller with all information reasonably

necessary for the Comptroller to assess performance under this Agreement for the purpose of issuing the Comptroller's report, as required by Section 313.032 of the TEXAS TAX CODE.

Section 8.4. DATA REQUESTS. Upon the written request of the District, the State Auditor's Office, the Appraisal District, or the Comptroller during the term of this Agreement, the Applicant, the District or any other entity on behalf of the District shall provide the requesting party with all information reasonably necessary for the requesting party to determine whether the Applicant is in compliance with its rights, obligations or responsibilities, including, but not limited to, any employment obligations which may arise under this Agreement.

Section 8.5. SITE VISITS AND RECORD REVIEW. The Applicant shall allow authorized employees of the District, the Comptroller, the Appraisal District, and the State Auditor's Office to have reasonable access to the Applicant's Qualified Property and business records from the Application Review Start Date through the Final Termination Date, in order to inspect the project to determine compliance with the terms hereof or as necessary to properly appraise the Taxable Value of the Applicant's Qualified Property.

A. All inspections will be made at a mutually agreeable time after the giving of not less than forty-eight (48) hours prior written notice, and will be conducted in such a manner so as not to unreasonably interfere with either the construction or operation of the Applicant's Qualified Property.

B. All inspections may be accompanied by one or more representatives of the Applicant, and shall be conducted in accordance with the Applicant's safety, security, and operational standards. Notwithstanding the foregoing, nothing contained in this Agreement shall require the Applicant to provide the District, the Comptroller, or the Appraisal District with any technical or business information that is proprietary, a trade secret, or is subject to a confidentiality agreement with any third party.

Section 8.6. RIGHT TO AUDIT; SUPPORTING DOCUMENTS; AUTHORITY OF STATE AUDITOR.

By executing this Agreement, implementing the authority of, and accepting the benefits provided by Chapter 313 of the TEXAS TAX CODE, the Parties agree that this Agreement and their performance pursuant to its terms are subject to review and audit by the State Auditor as if they are parties to a State contract and subject to the provisions of Section 2262.154 of the TEXAS GOVERNMENT CODE and Section 313.010(a) of the TEXAS TAX CODE. The Parties further agree to comply with the following requirements:

A. The District and the Applicant shall maintain and retain supporting documents adequate to ensure that claims for the Tax Limitation Amount are in accordance with applicable Comptroller and State of Texas requirements. The Applicant and the District shall maintain all such documents and other records relating to this Agreement and the State's property for a period of four (4) years after the latest occurring date of:

- i. date of submission of the final payment;

- ii. Final Termination Date; or
- iii. date of resolution of all disputes or payment.

B. During the time period defined under Section 8.6.A, the District and the Applicant shall make available at reasonable times and upon reasonable notice, and for reasonable periods, all information related to this Agreement; the Applicant's Application; and the Applicant's Qualified Property, Qualified Investment, New Qualifying Jobs, and wages paid for New Non-Qualifying Jobs such as work papers, reports, books, data, files, software, records, calculations, spreadsheets and other supporting documents pertaining to this Agreement, for purposes of inspecting, monitoring, auditing, or evaluating by the Comptroller, State Auditor's Office, State of Texas or their authorized representatives. The Applicant and the District shall cooperate with auditors and other authorized Comptroller and State of Texas representatives and shall provide them with prompt access to all of such property as requested by the Comptroller or the State of Texas. By example and not as an exclusion to other breaches or failures, the Applicant's or the District's failure to comply with this Section shall constitute a Material Breach of this Agreement.

C. In addition to and without limitation on the other audit provisions of this Agreement, the acceptance of tax benefits or funds by the Applicant or the District or any other entity or person directly under this Agreement acts as acceptance of the authority of the State Auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds. Under the direction of the legislative audit committee, the Applicant or the District or other entity that is the subject of an audit or investigation by the State Auditor must provide the State Auditor with access to any information the State Auditor considers relevant to the investigation or audit. The Parties agree that this Agreement shall for its duration be subject to all rules and procedures of the State Auditor acting under the direction of the legislative audit committee.

D. The Applicant shall include the requirements of this Section 8.6 in its subcontract with any entity whose employees or subcontractors are subject to wage requirements under the Act, the Comptroller's Rules, or this Agreement, or any entity whose employees or subcontractors are included in the Applicant's compliance with job creation or wage standard requirement of the Act, the Comptroller's Rules, or this Agreement.

Section 8.7. FALSE STATEMENTS; BREACH OF REPRESENTATIONS. The Parties acknowledge that this Agreement has been negotiated, and is being executed, in reliance upon the information contained in the Application, and any supplements or amendments thereto, without which the Comptroller would not have approved this Agreement and the District would not have executed this Agreement. By signature to this Agreement, the Applicant:

A. represents and warrants that all information, facts, and representations contained in the Application are true and correct to the best of its knowledge;

B. agrees and acknowledges that the Application and all related attachments and schedules are included by reference in this Agreement as if fully set forth herein; and

C. acknowledges that if the Applicant submitted its Application with a false statement, signs this Agreement with a false statement, or submits a report with a false statement, or it is

subsequently determined that the Applicant has violated any of the representations, warranties, guarantees, certifications, or affirmations included in the Application or this Agreement, the Applicant shall have materially breached this Agreement and the Agreement shall be invalid and void except for the enforcement of the provisions required by Section 9.2 of this Agreement.

ARTICLE IX **MATERIAL BREACH OR EARLY TERMINATION**

Section 9.1. EVENTS CONSTITUTING MATERIAL BREACH OF AGREEMENT. The Applicant shall be in Material Breach of this Agreement if it commits one or more of the following acts or omissions (each a "Material Breach"):

- A. The Application, any Application Supplement, or any Application Amendment on which this Agreement is approved is determined to be inaccurate as to any material representation, information, or fact or is not complete as to any material fact or representation or such application;
- B. The Applicant failed to complete Qualified Investment as required by Section 2.5.A. of this Agreement during the Qualifying Time Period;
- C. The Applicant failed to create and maintain the number of New Qualifying Jobs required by the Act;
- D. The Applicant failed to create and maintain the number of New Qualifying Jobs specified in Schedule C of the Application;
- E. The Applicant failed to pay at least the average weekly wage of all jobs in the county in which the jobs are located for all New Non-Qualifying Jobs created by the Applicant;
- F. The Applicant failed to provide payments to the District sufficient to protect future District revenues through payment of revenue offsets and other mechanisms as more fully described in Article IV of this Agreement;
- G. The Applicant failed to provide the payments to the District that protect the District from the payment of extraordinary education-related expenses related to the project to the extent and in the amounts that the Applicant agreed to provide such payments in Article V of this Agreement;
- H. The Applicant failed to provide the Supplemental Payments to the extent and in the amounts that the Applicant agreed to provide such Supplemental Payments in Article VI of this Agreement;
- I. The Applicant failed to create and Maintain Viable Presence on or with the Qualified Property as more fully specified in Article VIII of this Agreement;
- J. The Applicant failed to submit the reports required to be submitted by Section 8.2 to the satisfaction of the Comptroller;
- K. The Applicant failed to provide the District or the Comptroller with all information reasonably necessary for the District or the Comptroller to determine whether the Applicant is in compliance with its obligations, including, but not limited to, any employment obligations which

may arise under this Agreement;

L. The Applicant failed to allow authorized employees of the District, the Comptroller, the Appraisal District, or the State Auditor's Office to have access to the Applicant's Qualified Property or business records in order to inspect the project to determine compliance with the terms hereof or as necessary to properly appraise the Taxable Value of the Applicant's Qualified Property under Sections 8.5 and 8.6;

M. The Applicant failed to comply with a request by the State Auditor's office to review and audit the Applicant's compliance with this Agreement;

N. The Applicant has made any payments to the District or to any other person or persons in any form for the payment or transfer of money or any other thing of value in recognition of, anticipation of, or consideration for this Agreement for limitation on Appraised Value made pursuant to Chapter 313 of the TEXAS TAX CODE, in excess of the amounts set forth in Articles IV, V and VI of this Agreement;

O. The Applicant failed to comply with the conditions included in the certificate for limitation issued by the Comptroller.

Section 9.2. DETERMINATION OF BREACH AND TERMINATION OF AGREEMENT.

A. Prior to making a determination that the Applicant has failed to comply in any material respect with the terms of this Agreement or to meet any material obligation under this Agreement, the District shall provide the Applicant with a written notice of the facts which it believes have caused the breach of this Agreement, and if cure is possible, the cure proposed by the District. After receipt of the notice, the Applicant shall be given ninety (90) days to present any facts or arguments to the Board of Trustees showing that it is not in breach of its obligations under this Agreement, or that it has cured or undertaken to cure any such breach.

B. If the Board of Trustees is not satisfied with such response or that such breach has been cured, then the Board of Trustees shall, after reasonable notice to the Applicant, conduct a hearing called and held for the purpose of determining whether such breach has occurred and, if so, whether such breach has been cured. At any such hearing, the Applicant shall have the opportunity, together with their counsel, to be heard before the Board of Trustees. At the hearing, the Board of Trustees shall make findings as to:

- i. whether or not a breach of this Agreement has occurred;
- ii. whether or not such breach is a Material Breach;
- iii. the date such breach occurred, if any;
- iv. whether or not any such breach has been cured; and

C. In the event that the Board of Trustees determines that such a breach has occurred and has not been cured, it shall at that time determine:

- i. the amount of recapture taxes under Section 9.4.C (net of all credits under Section 9.4.C);
- ii. the amount of any penalty or interest under Section 9.4.E that are owed to the District; and
- iii. in the event of a finding of a Material Breach, whether to terminate this

Agreement.

D. After making its determination regarding any alleged breach, the Board of Trustees shall cause the Applicant to be notified in writing of its determination (a “Determination of Breach and Notice of Contract Termination”) and provide a copy to the Comptroller.

Section 9.3. DISPUTE RESOLUTION.

A. After receipt of notice of the Board of Trustee’s Determination of Breach and Notice of Contract Termination under Section 9.2, the Applicant shall have not greater than sixty (60) days in which either to tender payment or evidence of its efforts to cure, or to initiate mediation of the dispute by written notice to the District, in which case the District and the Applicant shall be required to make a good faith effort to resolve, without resort to litigation and within sixty (60) days after the Applicant initiates mediation, such dispute through mediation with a mutually agreeable mediator and at a mutually convenient time and place for the mediation. If the Parties are unable to agree on a mediator, a mediator shall be selected by the senior state district court judge then presiding in Winkler County, Texas. The Parties agree to sign a document that provides the mediator and the mediation will be governed by the provisions of Chapter 154 of the TEXAS CIVIL PRACTICE AND REMEDIES CODE and such other rules as the mediator shall prescribe. With respect to such mediation, (i) the District shall bear one-half of such mediator’s fees and expenses and the Applicant shall bear one-half of such mediator’s fees and expenses, and (ii) otherwise each Party shall bear all of its costs and expenses (including attorneys’ fees) incurred in connection with such mediation.

B. In the event that any mediation is not successful in resolving the dispute or that payment is not received within the time period described for mediation in Section 9.3.A, either the District or the Applicant may seek a judicial declaration of their respective rights and duties under this Agreement or otherwise, in a judicial proceeding in a state district court in Winkler, assert any rights or defenses, or seek any remedy in law or in equity, against the other Party with respect to any claim relating to any breach, default, or nonperformance of any contract, agreement or undertaking made by a Party pursuant to this Agreement.

C. If payments become due under this Agreement and are not received before the expiration of the 30 days provided for such payment in Section 9.3.A, and if the Applicant has not contested such payment calculations under the procedures set forth herein, including judicial proceedings, the District shall have the remedies for the collection of the amounts determined under Section 9.4 as are set forth in Chapter 33, Subchapters B and C, of the TEXAS TAX CODE for the collection of delinquent taxes. In the event that the District successfully prosecutes legal proceedings under this section, the Applicant shall also be responsible for the payment of attorney’s fees to the attorneys representing the District pursuant to Section 6.30 of the TEXAS TAX CODE and a tax lien shall attach to the Applicant’s Qualified Property and the Applicant’s Qualified Investment pursuant to Section 33.07 of the TEXAS TAX CODE to secure payment of such fees.

Section 9.4. Consequences of Early Termination or Other Breach by Applicant.

A. In the event that the Applicant terminates this Agreement without the consent of the District, except as provided in Section 7.2 of this Agreement, the Applicant shall pay to the District

liquidated damages for such failure within thirty (30) days after receipt of the notice of breach.

B. In the event that the District determines that the Applicant has failed to comply in any material respect with the terms of this Agreement or to meet any material obligation under this Agreement, the Applicant shall pay to the District liquidated damages, as calculated by Section 9.4.C, prior to, and the District may terminate the Agreement effective on the later of: (i) the expiration of the sixty (60) days provided for in Section 9.3.A, and (ii) thirty (30) days after any mediation and judicial proceedings initiated pursuant to Sections 9.3.A and 9.3.B are resolved in favor of the District.

C. The sum of liquidated damages due and payable shall be the sum total of the District ad valorem taxes for all of the Tax Years for which a tax limitation was granted pursuant to this Agreement prior to the year in which the default occurs that otherwise would have been due and payable by the Applicant to the District without the benefit of this Agreement, including penalty and interest, as calculated in accordance with Section 9.4.E. For purposes of this liquidated damages calculation, the Applicant shall be entitled to a credit for all payments made to the District pursuant to Articles IV, V, and VI. Upon payment of such liquidated damages, the Applicant's obligations under this Agreement shall be deemed fully satisfied, and such payment shall constitute the District's sole remedy.

D. In the event that the District determines that the Applicant has committed a Material Breach identified in Section 9.1, after the notice and mediation periods provided by Sections 9.2 and 9.3, then the District may, in addition to the payment of liquidated damages required pursuant to Section 9.4.C, terminate this Agreement.

E. In determining the amount of penalty or interest, or both, due in the event of a breach of this Agreement, the District shall first determine the base amount of recaptured taxes less all credits under Section 9.4.C owed for each Tax Year during the Tax Limitation Period. The District shall calculate penalty or interest for each Tax Year during the Tax Limitation Period in accordance with the methodology set forth in Chapter 33 of the TEXAS TAX CODE, as if the base amount calculated for such Tax Year less all credits under Section 9.4.C had become due and payable on February 1 of the calendar year following such Tax Year. Penalties on said amounts shall be calculated in accordance with the methodology set forth in Section 33.01(a) of the TEXAS TAX CODE, or its successor statute. Interest on said amounts shall be calculated in accordance with the methodology set forth in Section 33.01(c) of the TEXAS TAX CODE, or its successor statute.

Section 9.5. LIMITATION OF OTHER DAMAGES. Notwithstanding anything contained in this Agreement to the contrary, in the event of default or breach of this Agreement by the Applicant, the District's damages for such a default shall under no circumstances exceed the amounts calculated under Section 9.4. In addition, the District's sole right of equitable relief under this Agreement shall be its right to terminate this Agreement. The Parties further agree that the limitation of damages and remedies set forth in this Section 9.5 shall be the sole and exclusive remedies available to the District, whether at law or under principles of equity.

Section 9.6. STATUTORY PENALTY FOR INADEQUATE QUALIFIED INVESTMENT.

Pursuant to Section 313.0275 of the TEXAS TAX CODE, in the event that the Applicant fails to make \$20,000,000 of Qualified Investment, in whole or in part, during the Qualifying Time Period, the Applicant is liable to the State for a penalty. The amount of the penalty is the amount determined by: (i) multiplying the maintenance and operations tax rate of the school district for that tax year that the penalty is due by (ii) the amount obtained after subtracting (a) the Tax Limitation Amount identified in Section 2.4.B from (b) the Market Value of the property identified on the Appraisal District's records for the Tax Year the penalty is due. This penalty shall be paid on or before February 1 of the year following the expiration of the Qualifying Time Period and is subject to the delinquent penalty provisions of Section 33.01 of the TEXAS TAX CODE. The Comptroller may grant a waiver of this penalty in the event of Force Majeure which prevents compliance with this provision.

Section 9.7. REMEDY FOR FAILURE TO CREATE AND MAINTAIN REQUIRED NEW QUALIFYING JOBS. Pursuant to Section 313.0276 of the TEXAS TAX CODE, for any full Tax Year that commences after the project has become operational, in the event that it has been determined that the Applicant has failed to meet the job creation or retention requirements defined in Sections 9.1.C, the Applicant shall not be deemed to be in Material Breach of this Agreement until such time as the Comptroller has made a determination to rescind this Agreement under Section 313.0276 of TEXAS TAX CODE, and that determination is final.

Section 9.8. REMEDY FOR FAILURE TO CREATE AND MAINTAIN COMMITTED NEW QUALIFYING JOBS

A. In the event that the Applicant fails to create and maintain the number of New Qualifying Jobs specified in Schedule C of the Application, an event constituting a Material Breach as defined in Section 9.1.D, the Applicant and the District may elect to remedy the Material Breach through a penalty payment.

B. Following the notice and mediation periods provided by Sections 9.2 and 9.3, the District may request the Applicant to make a payment to the State in an amount equal to: (i) multiplying the maintenance and operations tax rate of the school district for that Tax Year that the Material Breach occurs by (ii) the amount obtained after subtracting (a) the Tax Limitation Amount identified in Section 2.4.B from (b) the market value of the property identified on the Appraisal District's records for each tax year the Material Breach occurs.

C. In the event that there is no tax limitation in place for the tax year that the Material Breach occurs, the payment to the State shall be in an amount equal to: (i) multiplying the maintenance and operations tax rate of the School District for each tax year that the Material Breach occurs by (ii) the amount obtained after subtracting (a) the tax limitation amount identified in Section 2.4.B from (b) the Market Value of the property identified on the Appraisal District's records for the last Tax Year for which the Applicant received a tax limitation.

D. The penalty shall be paid no later than 30 days after the notice of breach and is subject to the delinquent penalty provisions of Section 33.01 of the TEXAS TAX CODE.

ARTICLE X.

MISCELLANEOUS PROVISIONS

Section 10.1. INFORMATION AND NOTICES.

A. Unless otherwise expressly provided in this Agreement, all notices required or permitted hereunder shall be in writing and deemed sufficiently given for all purposes hereof if (i) delivered in person, by courier (*e.g.*, by Federal Express) or by registered or certified United States Mail to the Party to be notified, with receipt obtained, or (ii) sent by facsimile or email transmission, with notice of receipt obtained, in each case to the appropriate address or number as set forth below. Each notice shall be deemed effective on receipt by the addressee as aforesaid; provided that, notice received by facsimile or email transmission after 5:00 p.m. at the location of the addressee of such notice shall be deemed received on the first business day following the date of such electronic receipt.

B. Notices to the District shall be addressed to the District's Authorized Representative as follows:

Scotty Carman
Superintendent
Wink-Loving Independent School District
200 North Rosey Dodd Avenue
Wink, TX 79789
Phone: 432-527-3880
Email: scarman@wlisd.net

C. Notices to the Applicant shall be addressed to its Authorized Representative as follows:

General Counsel
Phoebe Energy Project, LLC
c/o Longroad Development Company, LLC
133 Federal Street, Suite 1202
Boston, MA 02110
Email: contracts@longroadenergy.com

or at such other address or to such other facsimile transmission number and to the attention of such other person as a Party may designate by written notice to the other.

D. A copy of any notice delivered to the Applicant shall also be delivered to any lender, tax equity investor or hedge provider for which the Applicant has provided the District notice of collateral assignment information pursuant to Section 10.3.C, below.

Section 10.2. AMENDMENTS TO APPLICATION AND AGREEMENT; WAIVERS.

A. This Agreement may not be modified or amended except by an instrument or instruments in writing signed by all of the Parties and after completing the requirements of Section 10.2.B. Waiver of any term, condition, or provision of this Agreement by any Party shall only be effective if in writing and shall not be construed as a waiver of any subsequent breach of, or failure to comply with, the same term, condition, or provision, or a waiver of any other term, condition, or provision of this Agreement.

B. By official action of the District's Board of Trustees, the Application and this Agreement may only be amended according to the following:

i. The Applicant shall submit to the District and the Comptroller:

a. a written request to amend the Application and this Agreement, which shall specify the changes the Applicant requests;

b. any changes to the information that was provided in the Application that was approved by the District and considered by the Comptroller;

c. and any additional information requested by the District or the Comptroller necessary to evaluate the amendment or modification;

ii. The Comptroller shall review the request and any additional information for compliance with the Act and the Comptroller's Rules and provide a revised Comptroller certificate for a limitation within 90 days of receiving the revised Application and, if the request to amend the Application has not been approved by the Comptroller by the end of the 90-day period, the request is denied; and

iii. If the Comptroller has not denied the request, the District's Board of Trustees shall approve or disapprove the request before the expiration of 150 days after the request is filed.

C. Any amendment of the Application and this Agreement adding additional or replacement Qualified Property pursuant to this Section 10.2 of this Agreement shall:

i. require that all property added by amendment be eligible property as defined by Section 313.024 of the TEXAS TAX CODE;

ii. clearly identify the property, investment, and employment information added by amendment from the property, investment, and employment information in the original Agreement; and

D. The Application and this Agreement may not be amended to extend the value limitation time period beyond its ten-year statutory term.

E. The Comptroller determination made under Section 313.026(c)(2) of the TEXAS TAX CODE in the original certificate for a limitation satisfies the requirement of the Comptroller to make the same determination for any amendment of the Application and this Agreement, provided that the facts upon which the original determination was made have not changed.

Section 10.3. ASSIGNMENT.

A. Any assignment of any rights, benefits, obligations, or interests of the Parties in this

Agreement, other than an assignment purely for the benefit of creditors of the project, is considered an amendment to the Agreement and such Party may only assign such rights, benefits, obligations, or interests of this Agreement after complying with the provisions of Section 10.2 regarding amendments to the Agreement. Other than an assignment to a creditor, this Agreement may only be assigned to an entity that is eligible to apply for and execute an agreement for limitation on appraised value pursuant to the provisions of Chapter 313 of the TEXAS TAX CODE and the Comptroller's Rules.

B. In the event of a merger or consolidation of the District with another school district or other governmental authority, this Agreement shall be binding on the successor school district or other governmental authority.

C. In the event of an assignment to a creditor, the Applicant must notify the District and the Comptroller in writing no later than 30 days after the assignment. This Agreement shall be binding on the assignee.

Section 10.4. MERGER. This Agreement contains all of the terms and conditions of the understanding of the Parties relating to the subject matter hereof. All prior negotiations, discussions, correspondence, and preliminary understandings between the Parties and others relating hereto are superseded by this Agreement.

Section 10.5. Governing Law. This Agreement and the transactions contemplated hereby shall be governed by and interpreted in accordance with the laws of the State of Texas without giving effect to principles thereof relating to conflicts of law or rules that would direct the application of the laws of another jurisdiction. Venue in any legal proceeding shall be in a state district court in Winkler.

Section 10.6. AUTHORITY TO EXECUTE AGREEMENT. Each of the Parties represents and warrants that its undersigned representative has been expressly authorized to execute this Agreement for and on behalf of such Party.

Section 10.7. SEVERABILITY. If any term, provision or condition of this Agreement, or any application thereof, is held invalid, illegal, or unenforceable in any respect under any Law (as hereinafter defined), this Agreement shall be reformed to the extent necessary to conform, in each case consistent with the intention of the Parties, to such Law, and to the extent such term, provision, or condition cannot be so reformed, then such term, provision, or condition (or such invalid, illegal or unenforceable application thereof) shall be deemed deleted from (or prohibited under) this Agreement, as the case may be, and the validity, legality, and enforceability of the remaining terms, provisions, and conditions contained herein (and any other application such term, provision, or condition) shall not in any way be affected or impaired thereby. Upon such determination that any term or other provision is invalid, illegal, or incapable of being enforced, the Parties hereto shall negotiate in good faith to modify this Agreement in an acceptable manner so as to effect the original intent of the Parties as closely as possible so that the transactions contemplated hereby are fulfilled to the extent possible. As used in this Section 10.7, the term "Law" shall mean any applicable statute,

law (including common law), ordinance, regulation, rule, ruling, order, writ, injunction, decree, or other official act of or by any federal, state or local government, governmental department, commission, board, bureau, agency, regulatory authority, instrumentality, or judicial or administrative body having jurisdiction over the matter or matters in question.

Section 10.8. PAYMENT OF EXPENSES. Except as otherwise expressly provided in this Agreement, or as covered by the application fee, each of the Parties shall pay its own costs and expenses relating to this Agreement, including, but not limited to, its costs and expenses of the negotiations leading up to this Agreement, and of its performance and compliance with this Agreement.

Section 10.9. INTERPRETATION.

A. When a reference is made in this Agreement to a Section, Article, or Exhibit, such reference shall be to a Section or Article of, or Exhibit to, this Agreement unless otherwise indicated. The headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

B. The words “include,” “includes,” and “including” when used in this Agreement shall be deemed in such case to be followed by the phrase, “but not limited to”. Words used in this Agreement, regardless of the number or gender specifically used, shall be deemed and construed to include any other number, singular or plural, and any other gender, masculine, feminine or neuter, as the context shall require.

C. The provisions of the Act and the Comptroller’s Rules are incorporated by reference as if fully set forth in this Agreement. In the event of a conflict, the conflict will be resolved by reference to the following order of precedence:

- i. The Act;
- ii. The Comptroller’s Rules as they exist at the time the Agreement is executed, except as allowed in the definition of Qualified Property in Section 1.1; and
- iii. This Agreement and its Attachments including the Application as incorporated by reference.

Section 10.10. EXECUTION OF COUNTERPARTS. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, and all of which, taken together, shall constitute but one and the same instrument, which may be sufficiently evidenced by one counterpart.

Section 10.11. PUBLICATION OF DOCUMENTS. The Parties acknowledge that the District is required to publish the Application and its required schedules, or any amendment thereto; all economic analyses of the proposed project submitted to the District; and the approved and executed copy of this Agreement or any amendment thereto, as follows:

A. Within seven (7) days of receipt of such document, the District shall submit a copy to the Comptroller for publication on the Comptroller’s Internet website;

B. The District shall provide on its website a link to the location of those documents posted on the Comptroller's website;

C. This Section does not require the publication of information that is confidential under Section 313.028 of the TEXAS TAX CODE.

Section 10.12. CONTROL; OWNERSHIP; LEGAL PROCEEDINGS. The Applicant shall immediately notify the District in writing of any actual or anticipated change in the control or ownership of the Applicant and of any legal or administrative investigations or proceedings initiated against the Applicant related to the project regardless of the jurisdiction from which such proceedings originate.

Section 10.13. DUTY TO DISCLOSE. If circumstances change or additional information is obtained regarding any of the representations and warranties made by the Applicant in the Application or this Agreement, or any other disclosure requirements, subsequent to the date of this Agreement, the Applicant's duty to disclose continues throughout the term of this Agreement.

Section 10.14. CONFLICTS OF INTEREST.

A. The District represents that, after diligent inquiry, each local public official or local government officer, as those terms are defined in Chapters 171 and 176 of the TEXAS LOCAL GOVERNMENT CODE, has disclosed any conflicts of interest in obtaining or performing this Agreement and related activities, appropriately recused from any decisions relating to this Agreement when a disclosure has been made, and the performance of this Agreement will not create any appearance of impropriety. The District represents that it, the District's local public officials or local government officer, as those terms are defined in Chapters 171 and 176 of the TEXAS LOCAL GOVERNMENT CODE, have not given, nor intend to give, at any time hereafter, any future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant, employee, or representative of the other Party or the State of Texas in connection with this Agreement.

B. The Applicant represents that, after diligent inquiry, each of its agents, as defined in Chapter 176 of the TEXAS LOCAL GOVERNMENT CODE, involved in the representation of the Applicant with the District has complied with the provisions of Chapter 176 of the TEXAS LOCAL GOVERNMENT CODE. The Applicant represents that it and its agents, as defined in Chapter 176 of the TEXAS LOCAL GOVERNMENT CODE, have not given, nor intend to give, at any time hereafter, any future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant, employee, or representative of the other Party or the State of Texas in connection with this Agreement.

C. The District and the Applicant each separately agree to notify the other Party and the Comptroller immediately upon learning of any conflicts of interest.

Section 10.15. PROVISIONS SURVIVING EXPIRATION OR TERMINATION. Notwithstanding the expiration or termination (by agreement, breach, or operation of time) of this

Agreement, the provisions of this Agreement regarding payments (including liquidated damages and tax payments), reports, records, and dispute resolution of the Agreement shall survive the termination or expiration dates of this Agreement until the following occurs:

- A. all payments, including liquidated damage and tax payments, have been made;
- B. all reports have been submitted;
- C. all records have been maintained in accordance with Section 8.6.A; and
- D. all disputes in controversy have been resolved.

Section 10.16. FACSIMILE OR ELECTRONIC DELIVERY.

A. This Agreement may be duly executed and delivered in person, by mail, or by facsimile or other electronic format (including portable document format (pdf) transmitted by e-mail). The executing Party must promptly deliver a complete, executed original or counterpart of this Agreement to the other executing Parties. This Agreement shall be binding on and enforceable against the executing Party whether or not it delivers such original or counterpart.

B. Delivery is deemed complete as follows:

- i. When delivered if delivered personally or sent by express courier service;
- ii. Three (3) business days after the date of mailing if sent by registered or certified U.S. mail, postage prepaid, with return receipt requested;
- iii. When transmitted if sent by facsimile, provided a confirmation of transmission is produced by the sending machine; or
- iv. When the recipient, by an e-mail sent to the e-mail address for the executing Parties acknowledges having received that e-mail (an automatic "read receipt" does not constitute acknowledgment of an e-mail for delivery purposes).

IN WITNESS WHEREOF, this Agreement has been executed by the Parties in multiple originals on this 12th day of December, 2017.

PHOEBE ENERGY PROJECT, LLC

**WINK-LOVING INDEPENDENT
SCHOOL DISTRICT**

By: Michael U. Ahay
DIRECTOR COO

By: Brad White
BRAD WHITE
PRESIDENT, BOARD OF TRUSTEES

ATTEST:

By: Melissa Halterman
MELISSA HALTERMAN
SECRETARY, BOARD OF
TRUSTEES

EXHIBIT 1
DESCRIPTION AND LOCATION OF ENTERPRISE OR REINVESTMENT ZONE

At the time of the Application Approval Date, pursuant to Chapter 312 of the Texas Tax Code, the Winkler Commissioner's Court designated the below tracts of land as the Henry Reinvestment Zone. A map of this Henry Reinvestment Zone is attached as the last page of this **EXHIBIT 1** following the legal description of the zone. All of the Applicant's Qualified Property and Applicant's Qualified Investment will be located within the boundaries of the Henry Reinvestment Zone.

EXHIBIT A
LEGAL DESCRIPTION OF "HENRY"
REINVESTMENT ZONE

PARCEL 1:

AP #2389

Section 15, Block B-7, Survey 1828, P.S.L., Winkler County, Texas.

PARCEL 2:

AP #2390

Section 16, Block B-7, Survey 1829, P.S.L., Winkler County, Texas.

PARCEL 3:

AP #2385

The South Half of Section 10, Block B7, Survey 1811, P.S.L., Winkler County, Texas.

PARCEL 4:

AP #3128

Section 17, Block 40, Survey 1814, P.S.L., Winkler County, Texas.

PARCEL 5:

AP #3135

Section 24, Block 40, Survey 1813, P.S.L., Winkler County, Texas.

PARCEL 6:

AP #3127

The South Half of Section 16, Block 40, Survey 1883, P.S.L., Winkler County, Texas.

PARCEL 7:

AP #3134

Section 23, Block 40, Survey 1891, P.S.L., Winkler County, Texas.

PARCEL 8:

AP #3136

Section 25, Block 40, Survey 198, P.S.L., Winkler County, Texas.

PARCEL 9:

AP #3137

Section 26, Block 40, Survey 166, P.S.L., Winkler County, Texas.

PARCEL 10:

AP #3138

Section 27, Block 40, Survey 165, P.S.L., Winkler County, Texas.

PARCEL 11:

AP #2012

Section 11, Block 40, Survey 1878, P.S.L., Winkler County, Texas.

PARCEL 12:

AP #2013

Section 12, Block 40, Survey 1879, P.S.L., Winkler County, Texas.

PARCEL 13:

AP #3123

Section 13, Block 40, Survey 1880, P.S.L., Winkler County, Texas.

PARCEL 14:

AP #3124

Section 14, Block 40, Survey 1881, P.S.L., Winkler County, Texas.

PARCEL 15:

AP #3129

Section 18, Block 40, Survey 1884, P.S.L., Winkler County, Texas.

PARCEL 16:

AP #3130

Section 19, Block 40, Survey 1885, P.S.L., Winkler County, Texas.

PARCEL 17:

AP #3131

Section 20, Block 40, Survey 1886, P.S.L., Winkler County, Texas.

PARCEL 18:

AP #3132

Section 21, Block 40, Survey 1887, P.S.L., Winkler County, Texas.

PARCEL 19:

AP #3133

Section 22, Block 40, Survey 1888, P.S.L., Winkler County, Texas.

PARCEL 20:

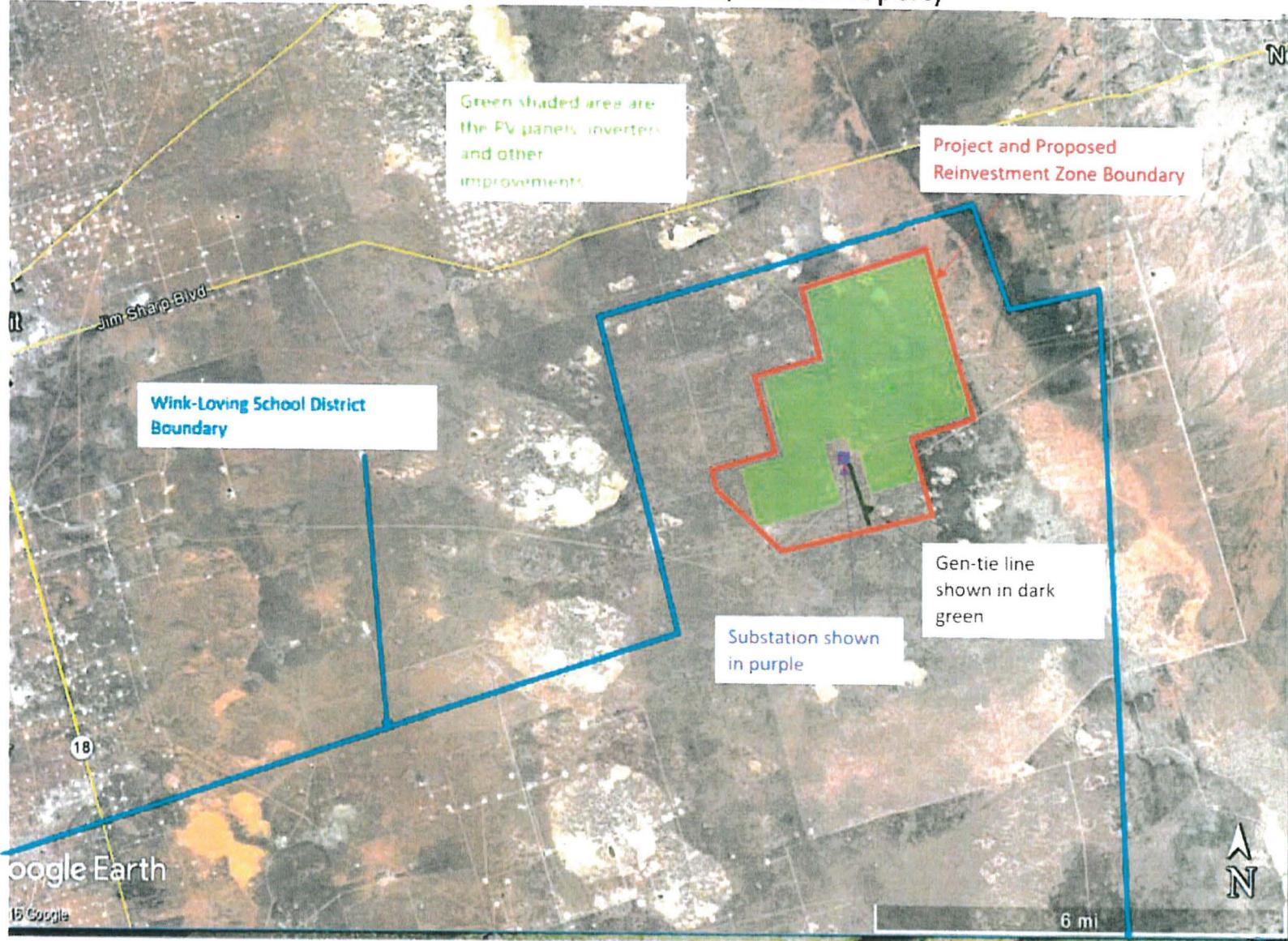
AP #3143

Section 32, Block 40, Survey 199, P.S.L., Winkler County, Texas.

**EXHIBIT B
MAP OF "HENRY"
REINVESTMENT ZONE**

[FOLLOWS ON SUBSEQUENT PAGE]

Map of Qualified Investment and Qualified Property



Project Vicinity Map and Reinvestment Zone Boundary

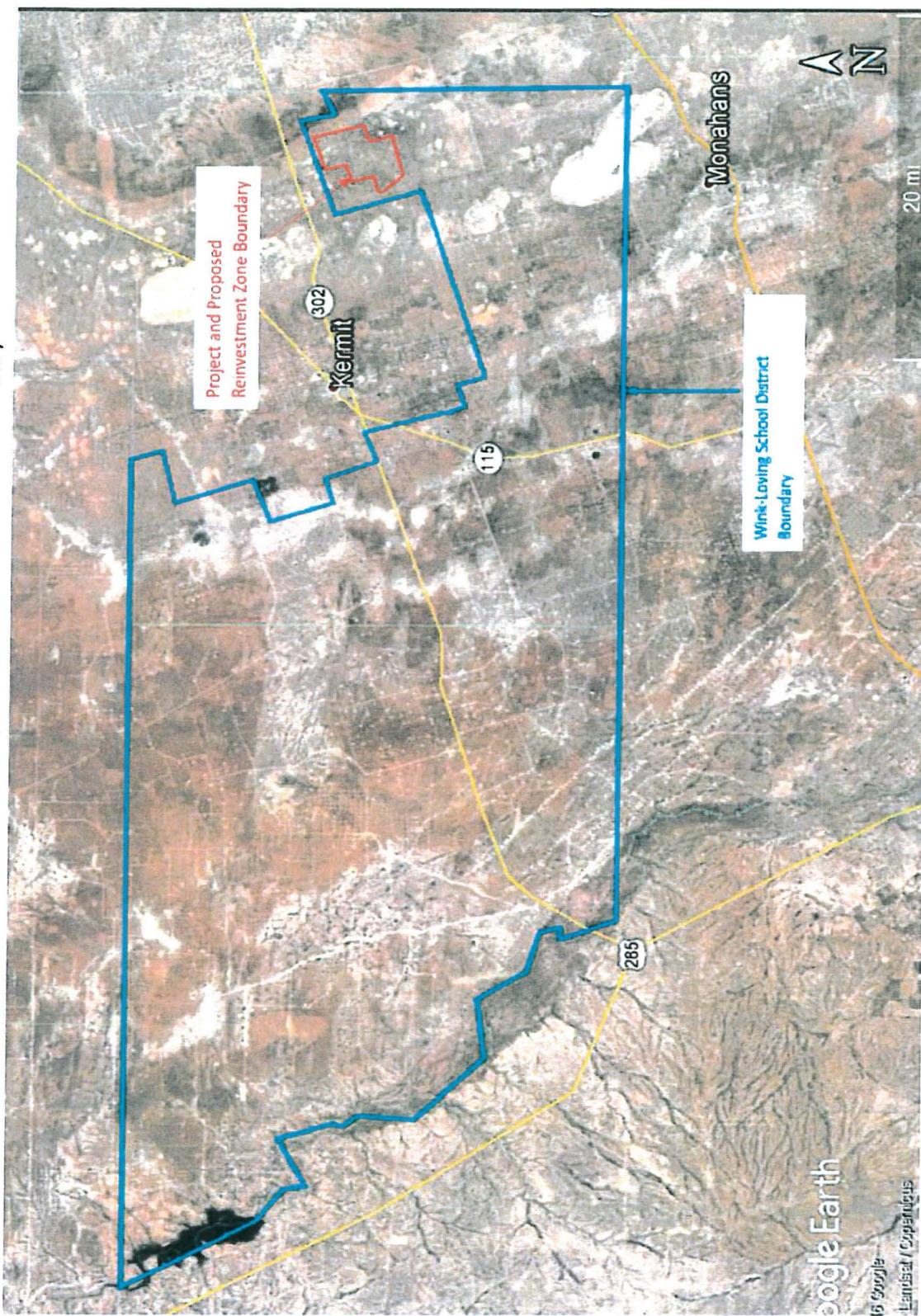


EXHIBIT 2 DESCRIPTION AND LOCATION OF LAND

The Land on which the Qualified Property shall be located and on which the Qualified Investment shall be made is described by the map attached to **Exhibit 1**.

EXHIBIT 3

APPLICANT'S QUALIFIED INVESTMENT

Applicant's Qualified Investment shall be all tangible personal property first placed in service after December 12, 2017, that is owned by the Applicant, as more fully described in Tab #7 of the Application, and located within the boundaries of the Wink-Loving Independent School District and the map attached to **Exhibit 1**.

Phoebe Energy Project, LLC, anticipates constructing a solar photovoltaic (PV) electric generating facility with an operating capacity of approximately 250 MW ac. The exact capacity and the specific technology components will be determined during the development and design process.

A 250 MW solar PV generating facility may include a qualified investment consisting of the following improvements:

- PV modules;
- DC-to-AC inverters;
- Medium and high-voltage electric cabling;
- Single axis tracking racking system (mounting structures);
 - Project substation which will include a high-voltage transformer, switchgear, transmission equipment, telecommunications and SCADA equipment, circuit breakers, switches, and control room;
- High-voltage transmission line connecting the project to the grid (gen tie);
- Operations and maintenance (O&M) facility and its Qualified Property;
- Meteorological equipment to measure solar irradiance and other weather conditions; and
- Associated equipment to safely operate, maintain and deliver electricity to the grid.

EXHIBIT 4

DESCRIPTION AND LOCATION OF QUALIFIED PROPERTY

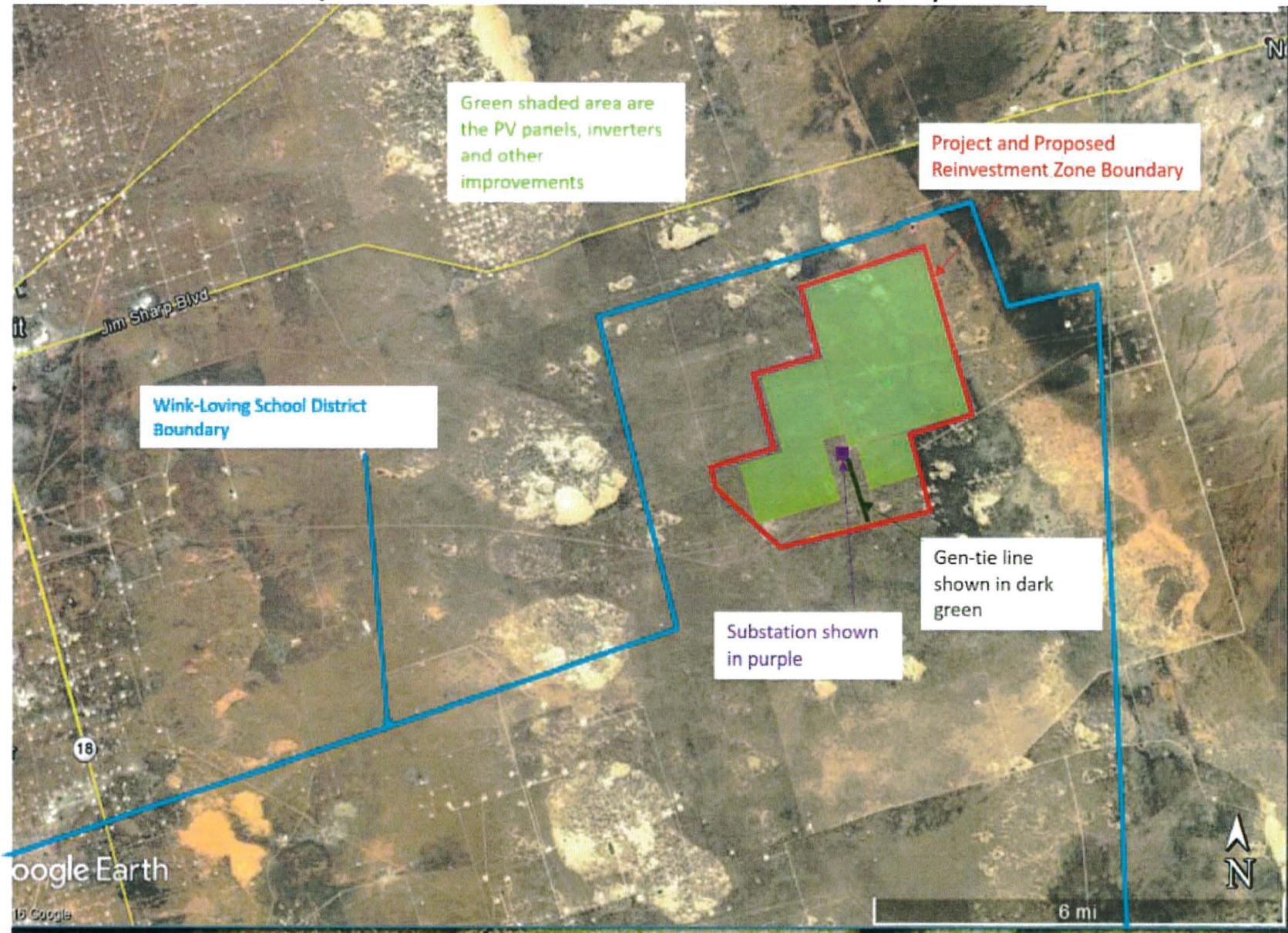
This Agreement covers all qualified property within Wink-Loving ISD necessary for the commercial operations of the solar-powered electric generating facility. All the Qualified Property for this Project will be located within Wink-Loving ISD.

Phoebe Energy Project, LLC, anticipates constructing a solar photovoltaic (PV) electric generating facility with an operating capacity of approximately 250 MW ac. The exact capacity and the specific technology components will be determined during the development and design process.

A 250 MW solar PV generating facility may include a qualified investment consisting of the following improvements:

- PV modules;
- DC-to-AC inverters;
- Medium and high-voltage electric cabling;
- Single axis tracking racking system (mounting structures);
- Project substation which will include a high-voltage transformer, switchgear, transmission equipment, telecommunications and SCADA equipment, circuit breakers, switches, and control room;
- High-voltage transmission line connecting the project to the grid (gen tie);
- Operations and maintenance (O&M) facility and its Qualified Property;
- Meteorological equipment to measure solar irradiance and other weather conditions; and
- Associated equipment to safely operate, maintain and deliver electricity to the grid.

Map of Qualified Investment and Qualified Property



Attachment H

Consultant Verification Letter



LYNN M. MOAK, PARTNER

DANIEL T. CASEY, PARTNER

December 12, 2017

President and Members
Board of Trustees
Wink-Loving Independent School District
200 North Rosey Dodd Ave.
Wink, Texas 79789

Re: Recommendations and Findings of the firm Concerning Application of Phoebe Energy Project LLC for Limitation on Appraised Value of Property for School District Maintenance and Operations Taxes

Dear President and Members of the Board of Trustees:

Please accept this letter as formal notification of the completion of due diligence research on behalf of the Wink-Loving Independent School District, with respect to the pending Application of Phoebe Energy Project LLC for Limitation on Appraised Value of Property for School District Maintenance and Operations Taxes. Since our engagement on behalf of the District, we have been actively engaged in reviewing the pending Application and verifying its contents. Based upon our review, we have drawn the following conclusions:

1. All statements of current fact contained in the Application are true and correct.
2. The project proposed in the Application meets all applicable eligibility criteria of Chapter 313 of the Texas Tax Code.
3. The Applicant has the current means and ability to complete the proposed project.
4. All applicable school finance implications arising from the contemplated Agreement have been explored.
5. The proposed Agreement contains adequate revenue protection provisions to protect the interests of the District over the course of the Agreement.

As a result of the foregoing it is our recommendation that the Board of Trustees approve the Application of Phoebe Energy Project LLC for a Limitation on Appraised Value of Property for School District Maintenance and Operations Taxes.

Sincerely,

Daniel T. Casey

www.moakcasey.com

O'HANLON, DEMERATH & CASTILLO

ATTORNEYS & COUNSELORS AT LAW
808 WEST AVE
AUSTIN, TEXAS 78701
TELEPHONE: (512) 494-9949
FACSIMILE: (512) 494-9919

KEVIN O'HANLON
CERTIFIED, CIVIL APPELLATE
CERTIFIED, CIVIL TRIAL

JUSTIN DEMERATH
BENJAMIN CASTILLO

December 12, 2017

President and Members
Of the Board of Trustees
Wink-Loving Independent School District
200 North Rosey Dodd Ave.
Wink, Texas 79789

Re: Recommendations and Findings of the Firm Concerning Application of Phoebe Energy Project LLC for Limitation on Appraised Value of Property for School District Maintenance and Operations Taxes

Dear President and Members of the Board of Trustees:

Please accept this letter as formal notification of the completion of due diligence research on behalf of the Wink-Loving Independent School District, with respect to the pending Application of Phoebe Energy Project LLC for a Limitation on Appraised Value of Property for School District Maintenance and Operations Taxes. Since our engagement on behalf of the District, we have been actively engaged in reviewing the pending Application and verifying its contents. We have also negotiated an Agreement between the District and Phoebe Energy Project LLC Based upon our review we have drawn the following conclusions:

1. All statements of current fact contained in the Application are true and correct.
2. The project proposed in the Application meets all applicable eligibility criteria of Chapter 313 of the Texas Tax Code.
3. The Applicant has the current means and ability to complete the proposed project.
4. All applicable school finance implications arising from the contemplated Agreement have been explored.

5. The proposed Agreement contains adequate legal provisions so as to protect the interests of the District.

As a result of the foregoing conclusions it is our recommendation that the Board of Trustees approve the Application of Phoebe Energy Project LLC for Limitation on Appraised Value of Property for School District Maintenance and Operations Taxes.

Sincerely,

A handwritten signature in black ink, appearing to read "Kevin O'Hanlon".

Kevin O'Hanlon
For the Firm

Attachment I

Agreement Review Letter



GLENN HEGAR TEXAS COMPTROLLER OF PUBLIC ACCOUNTS

P.O. Box 13528 • Austin, TX 78711-3528

December 7, 2017

Scotty Carman
Superintendent
Wink-Loving Independent School District
P.O. Box 637
Wink, Texas 79789

Re: Agreement for Limitation on Appraised Value of Property for School District Maintenance and Operations taxes by and between Wink-Loving Independent School District and Phoebe Energy Project, LLC, Application 1217

Dear Superintendent Carman:

This office has been provided with the Agreement for Limitation on Appraised Value of Property for School District Maintenance and Operations taxes by and between Wink-Loving Independent School District and Phoebe Energy Project, LLC (Agreement). As requested, the Agreement has been reviewed pursuant to 34 TAC 9.1055(e)(1).

Based on our review, this office concludes that the agreement complies with the provisions of Tax Code, Chapter 313 and 34 TAC Chapter 9, Subchapter F.

Should you have any questions, please contact Michelle Luera with our office. She can be reached by email at michelle.luera@cpa.texas.gov or by phone at 1-800-531-5441, ext. 3-6053, or at 512-463-6053.

Sincerely,

Will Counihan
Director
Data Analysis & Transparency Division

cc: Dan Casey, Moak, Casey & Associates LLP
Michael Alvarez, Longroad Development Company, LLC
Scott Pryor, 7X Energy, Inc.

Attachment J

Conflict Of Interest Disclosure

Conflicts of Interest Disclosure Procedure

In its recent audits of Chapter 313 Agreements, The Texas State Auditor's Office has required documentation of inquiries concerning Board Member conflicts of interest at critical junctures in the Chapter 313 approval process. A local public official or a person related to a local public official in the first degree by either affinity or consanguinity has a substantial interest in a business entity or in real property, the local public official, before a vote or decision on any matter involving the business entity or the real property, is required to file an affidavit with an official Board record keeper stating the nature and extent of the interest and shall abstain from further participation in the matter if:

1. In the case of a substantial interest in a business entity, the action on the matter will have a special economic effect on the business entity that is distinguishable from the effect on the public; or
2. In the case of a substantial interest in real property, it is reasonably foreseeable that an action on the matter will have a special economic effect on the value of the property, distinguishable from its effect on the public.
3. A person has a substantial interest in a business entity if:
The person owns at least:
 - a. Ten percent of the voting stock or shares of the business entity, or
 - b. Either ten percent or \$15,000 of the fair market value of the business entity; or
 - c. Funds received by the person from the business entity exceed ten percent of the person's gross income for the previous year.
4. In the case of a substantial interest in real property, it is reasonably foreseeable that an action on the matter will have a special economic effect on the value of the property, distinguishable from its effect on the public.

The Board may contract with a business entity in which a Trustee has a substantial interest if the Trustee follows the disclosure and abstention procedure set out above.

Does any Board Member have a conflict of interest as defined above?

If so, has the required Affidavit, set forth at District Policy BBFA (Exhibit) been filed?

Please have the answers to the foregoing 2 questions and a copy of this Procedure included in the minutes of this meeting.